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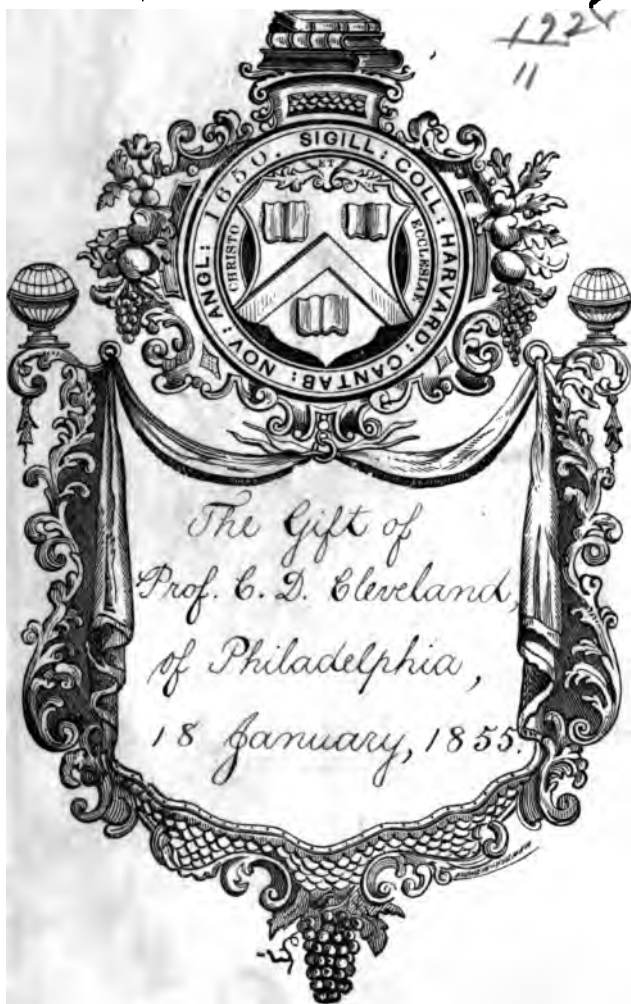
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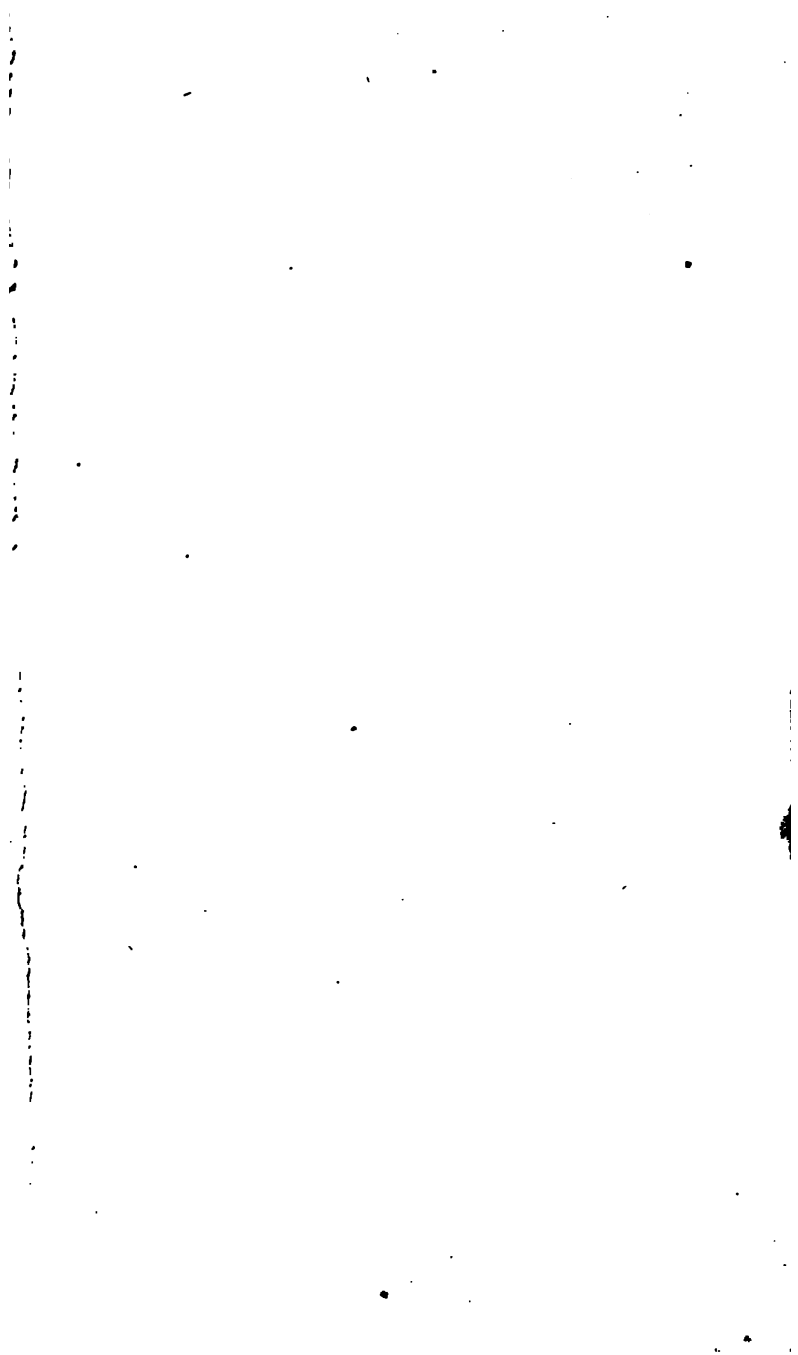












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# CAPITAL PUNISHMENT.

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## THE ARGUMENT

OF

REV. GEORGE B. CHEEVER,

IN REPLY TO

J. L. O'SULLIVAN, ESQ.,

IN THE

BROADWAY TABERNACLE,

ON THE EVENINGS OF JANUARY 27th, AND FEBRUARY 3d & 17th.

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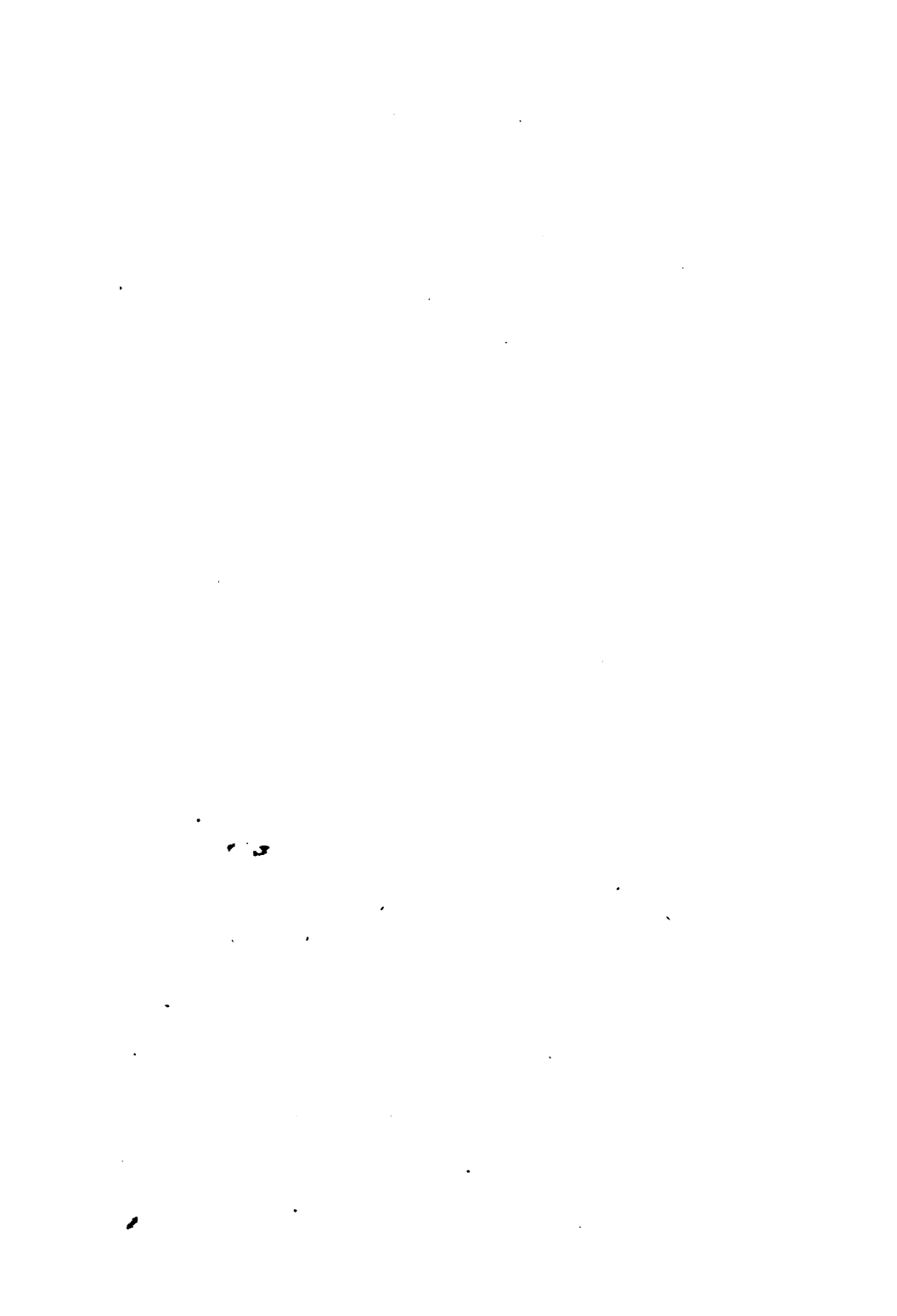
## PREFACE.

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THE debate by which the following argument was called forth, was originally intended for only two evenings. Meantime, there occurred a debate on the same subject before the New York Lyceum, in which the Rev. Dr. Cox, and Horace Greeley, Esq. were among the speakers. There occurred also a second evening's debate between these two gentlemen, each occupying one hour. After this came the second evening of the debate between Mr. O'Sullivan and the author of the present argument. At the close of that evening Mr. O'Sullivan unexpectedly challenged his opponent to continue the discussion one evening longer, and this invitation being accepted, the whole debate was thus protracted through five evenings in five weeks. The following argument embraces the debate of three of those evenings, on the side against the abolition of capital punishment. The question as stated was as follows :

*"Resolved, THAT CAPITAL PUNISHMENT OUGHT TO BE ABOLISHED."*

The Report of the argument appeared originally, with some omissions, in the New York Evangelist. In the present volume one or two paragraphs are added, which the author was compelled to omit in the discussion for want of time. Some critical remarks on the statute in Genesis, have been also given at the close of the third evening's argument, in addition to the preceding examination of it.



## INTRODUCTION.

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THERE were points in this argument important to dwell upon, which were passed over, partly for want of time, and partly because they had been noted in a former treatise on Capital Punishment, which treatise is before the public. Of this nature was that probable reason for the promulgation of this ordinance to Noah, which looks back into the state of society in the antediluvian world. I have argued that in consequence of the divine lenity in the case of Cain the crime of murder had become frightfully common, the earth being filled with violence. The assurance that his own life would not be taken, with which Lamech, whether a murderer or a homicide, comforted himself and his wives by the example of Cain's preservation, shows how men reasoned from that lenity ; and that the consequence of it would be a great cheapness in the estimate of human life, a great freedom in the indulgence of violent passion unrestrained by consequences, and a perfect carelessness and recklessness in blood-shed.

Now in this ordinance the Divine Legislator made a covenant with Noah and his posterity to preserve

them, by this ordinance, from that frightful state of society, which had prevailed in the antediluvian world without this ordinance. This consideration is not absolutely necessary as an introduction to the right understanding of the law, or of the reasons why it was given forth now first at the commencement of the re-peopleing of the world by Noah. Its intrinsic reasonableness carries an appeal to the human mind; and moreover, Jehovah has condescended to annex to it the highest possible reason that could be supposed or given; neither can our ignorance of the reason why an ordinance based upon such perpetual grounds was not promulgated at a previous period weaken the nature of such grounds in our estimation, or diminish our sense of the intrinsic reasonableness of such an ordinance. If it did, we might also say that the late promulgation of the Christian Religion to the Gentile world was a proof that it is not of universal necessity, nor of scriptural excellence, for that, if it had been, it would assuredly have been promulgated to all the world much earlier, which reasoning would be a most presumptuous and daring arraignment of the wisdom and goodness of God.

We do not therefore need the antediluvian argument to strengthen our conviction of the wisdom of this statute or to protect its reason from cavil. Still, the examination of the state of affairs in the antediluvian world adds great power to our argument in the inter-



pretation of this statute, which indeed on no principles of common sense, any more than by right principles of criticism, can be interpreted in any other way than as an injunction.

Another point of importance noted in the previous volume on this subject regards the state of society on the earth at the period when, in point of fact, the statute enacting death as the penalty for murder was first promulgated. Inconsequent, inaccurate, and forgetful reasoners are deluded by a set of declaimers about the savage and barbarous state of society which made this law expedient then, though in a change of circumstances it might not be expedient now. There is a deplorable disregard of truth in this declamation, as well as a surprising degree of ignorance, which marks much of the argument advanced against this statute. In point of fact the state of society which first called for the promulgation of this law was characterised by a degree of refinement, knowledge and piety far greater than now prevails in any community where men are calling for the abolition of this law. Nevertheless, what senseless references men are often found making to a supposed barbarous state of the world, which may have made this statute necessary, though a more refined state of existence would render it unnecessary. Not only was it first given forth while there was a greater proportion both of piety and wisdom in the world than there has ever been since, but it was re-en-

acted many centuries afterwards, still more explicitly, for the wisest, most refined and religious community in the world's history.

It is sometimes said that in that early period there were no prisons, and therefore it was necessary to kill the murderer, because they could not keep him. What then could they do with the thief, the robber, the house-breaker? By the same reasoning they must kill him, because they had no prisons in which to keep him. I think if they could build cities, they could also build prisons. The state of society in which the Tower of Babel could be erected, was not likely to suffer for want of a jail.

If this had been the reason for this statute, certainly it would have been stated. The statute would have run thus: Whoso sheddeth man's blood, by man shall his blood be shed, because at present there are no prisons to confine him in. And it would have been added: As soon as you are strong enough to build a jail, or to hew and transport stones of a sufficient size for a murderer's prison, then this statute must be laid aside, there being no longer any use or necessity for it. If this had been the reason for this statute, how happens it that at an after period, when there was no more deficiency in prisons than in thieves and murderers, there being abundance of both, this very same statute is re-promulgated, with the additional command that in no case whatever shall the penalty of death to the murderer be commuted, but

that in every case, without fail, the murderer shall be put to death? Was this because they had no prisons?

In truth, in the case of every argument brought against this statute, and every expedient by which men would evade it, we need only turn to the reason given for it by Jehovah, and in a moment, in spite of all sophistry, its meaning is as clear as the day, its obligation is seen to be perpetual.

Another point, which could not be dwelt upon in the course of the debate, is the idea of Right and of Moral Necessity, as well as of utility and expediency, applied to punishment as the ground of it. Such absurd consequences follow from the assertion that utility is the only ground of punishment, that no close reasoner can maintain this assertion for a moment. If it be so, and you punish merely because punishment is useful, then the punishment of an innocent man may in certain circumstances be just as useful as that of a guilty man; and if in any circumstances it be more useful, you are bound then to punish not the guilty, but the innocent. The words desert, justice, punishment, convey ideas over and above the idea of utility. We do not punish because it is useful, but because it is deserved and just; and being deserved and just, it cannot but be useful. There can be no doubt that punishment, even in this world, is sometimes called for, apart from the question whether it be useful or not. Indeed, there is sometimes a demand in the bosom of the guilty

person himself, for punishment, and a sort of satisfaction beneath the punishment, as if a necessary law of the human mind, apart from all considerations of utility, were complied with. No doubt such a law exists, in regard to retribution for sin ; and though there can be no conceivable case in which such retribution is not useful, still, the human mind, in its judgment of the matter, does not base the necessity of retribution upon its usefulness, but upon its justice. Its intrinsic *justice* is the ground of its *utility* ; its *utility* is not the ground of its *justice*.

This opens up a whole world of truth, most solemn and important, in the connections of this subject with the divine government, and the nature of retribution and penalty in eternity. Of course, it was impossible to follow out the argument in this direction, in our limited debate. But the examination of this subject, in the light it throws upon, as well as receives from, the divine government in eternity, places it on such high grounds of truth, and brings into view such solemn and admonitory principles, that to the religious mind, as well as to the mere politician, the whole discussion must seem unspeakably important.

# CAPITAL PUNISHMENT.

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## ARGUMENT OF THE FIRST EVENING.

MR. CHEEVER observed, before entering on his argument, that when requested to take part on this question, he determined not to do it, except as a deliberative discussion. He deemed it due to the greatness of the subject, and the character of his audience, to prepare his thoughts with more precision and clearness, than he could well give to them in the excitement of an agitating debate. The discussion being intended for two evenings, he separated his argument into two grand divisions, reserving for the second evening the whole branch of expediency, with all its deep interest, variety, and power.

He commenced with the passage, Genesis ix. 6, "WHOSO SHEDDETH MAN'S BLOOD, BY MAN SHALL HIS BLOOD BE SHED."

For the interpretation of this ordinance as a command, we have the authority, first, of the greatest com-

mentators that have ever appeared in the world. Among them I shall mention the names of Hammond, Grotius, Calvin, Matthew Henry, Michaelis, and Rosenmueller. Second, for the particular construction of the passage, according to the laws of the Hebrew language, we have the authority of the greatest Hebrew scholars that the world has ever known. If you will turn to the Hebrew grammars of Gesenius, Stuart, or Nordheimer, you will find that for the imperative in this case no other form could be used but that which is used, by man *shall* his blood be shed. The Hebrew imperative has no third person, and the future is always used in its stead. But not only so, the future supplies the form of the imperative throughout the whole decalogue, not one of the precepts of which is any more mandatory in its form than this ordinance. But this is not all: I can bring you a parallel passage from the book of Proverbs, (xxviii. 17,) by which you may see that even if you put aside the imperative form, the assertion in the ordinance is still of the nature of an injunction. "The man that doeth violence to the blood of any person shall flee to the pit; let no man stay him." That is, he shall immediately die. It cannot mean, he *will* flee to the pit, for he certainly will not if he can help it; but, he *shall* do this; he shall immediately be cut off; and to make this certain, it is added, Let no man stay him;—let no man interfere to save him;—let no man prevent, or seek to prevent, that immediate destruction, which is the penalty of his crime.

METHODS PROPOSED FOR EVADING THE FORCE OF THIS  
ORDINANCE.

It certainly is not wonderful that the advocates for the abolition of Capital Punishment should wish to evade the force of this statute: it is the citadel of our argument, commanding and sweeping the whole subject. All else is a mere guerilla warfare, if you cannot carry this entrenchment. In the matter of utility and expediency, we are in as strong possession of the ground as in the matter of the Scriptures and theology, and this I propose to show conclusively. The meaning of this statute is first to be settled, and defended from objections. Both the context and the interpretation show manifestly that it is a command, an injunction, a law. Two methods have been proposed for its annihilation; first, to render it *whatsoever* sheddeth man's blood, and to restrict its application to beasts; and second, to treat it as a mere prediction. I shall show the absurdity of these positions, and then proceed in my argument. The first position is impossible in the interpretation, since, if you even rendered it, *whatsoever*, it includes both man and beast. But it is still more absurd in its nature and consequences; for it amounts to this; that God, at the opening of the world, and in regard to the crime of murder, is legislating for brutes and not for men! If a wild beast, driven by hunger, or hunted and provoked, kills a man, capital punishment shall be executed upon him. If a man murders his fellow-man, no blood must be exacted. Suppose,

then, (to use a forcible illustration for which I am indebted to the kindness of a friend,) a malicious neighbor in that early age to have set a trained bloodhound on a man whose life he was seeking ; and the obedient animal, true to his own nature, and an admirable instrument of murder for his master, takes the life-blood of his victim. Must the man be arraigned and executed on the charge of murder ? By no means, say the humane expositors of this law of God ; that would be to add murder to murder. Let the man escape, but the dog must be hung ; the ferocious brute, that knew no better than instinctively to do what his master bade him, and so to slay a man made in the image of God, deserves to die. Let the the court proceed to condemn the blood-thirsty quadruped ; and, to show the sacredness of human life, and protect society from the incursions of wild beasts, let the creature be solemnly executed ; and let it be done in the sight of all the other beasts and bloodhounds you can summon to the spectacle ; for the statute is, "*Whatsoever sheddeth man's blood, by man shall that beast's blood be shed*" !

Perhaps now you will choose to abandon this ground, and admitting that it refers to man, you contend that it is merely a prediction. Now mark the consequences. It is either manifestly false, and has not been fulfilled, or the prediction itself has caused its own fulfillment, and must have been given for this purpose. But supposing it to be a prediction, is it not a little singular that you yourself are opposing its fulfillment ? If it be really what you say, a prediction of Jehovah, do you



believe that you can prevent its fulfilment? Certainly, if I thought God had predicted that every murderer should be punished with death, I should not dream of being able to prevent it: Your efforts against capital punishment are unavailing, if God has here predicted that capital punishment shall prevail. But not only so, they are presumptuously irreligious. The Emperor Julian, the apostate, to show his spite against Christianity, and to falsify one of its most important predictions, tried to build again the walls and temple of Jerusalem, but the hand of Heaven prevented him. You are trying to destroy an institution, which you yourself contend that God has predicted shall stand.

God either meant that the prediction should be fulfilled, or he did not. If he did, you are opposing God's intention, and endeavoring to prove him a liar. If you say that he did not mean it should be fulfilled, you make the sentence a nullity of idle words, and God a trifler. Moreover, you contend that capital punishment is wrong; in effect, you argue that it is a sin. Here, then, consequently, is a sentence from Jehovah, which you say is a prediction concerning the prevalence of a sin; but which is so worded, that the whole world for four thousand years have considered it a command, and acted upon it; the Hebrews themselves, under the very guidance of God, taking it as a law, and acting accordingly. Assuredly this supposes in the framer of such a prediction either wilful deception, or the most astounding stupidity. To put it in a strong light, let me ask what would you think, if God, intending to forbid stealing, had predicted that men will steal, but had

uttered this prediction in such a manner, that men for four thousand years should have interpreted it as a command to steal, and acted accordingly, the mistake never once being corrected in all after legislation! But, indeed, the efforts to evade this statute, involve absurdities in every direction.

**PROOF OF THE UNIVERSAL APPLICATION, AND UNLIMITED  
DURATION OF THIS STATUTE.**

THREE things are noted in this statute; its PRIORITY TO ALL LEGISLATION; ITS COMPREHENSIVENESS; AND ITS UNLIMITED DURATION. It comes immediately and solely from God. It was meant for all mankind. Its authority continues as long as the race. As it is solely from God, God only could repeal it. He never has repealed it, and it is just as binding upon us, as it was upon the generation to whom it was first given. If you deny its application to us, to nations and governments now, you must point out the place where its application stops. Is it in the first generation, when the scarcity of men, and their relationship with one another made it less necessary; or is it at an after period, when men and crimes increased together, so that every year that the race lived made it more necessary? It is the first law in the world; but not only so, it is the first law of God in the world. What subject would he be likely to legislate upon in such circumstances? One of temporary, transitory importance, or one which, beginning with the race, should last with the race? The law, as well as the covenant connected with it,

was intended, beyond all doubt, for all mankind ; you cannot stand at any point in the stream of time, or the history of man, and tell me, There this legislation stops ; you can no more separate its obligation now, from its obligation in the age of Noah, than you can stand at any point in the river that supplies this city with pure water, and tell me what particular drops find their way into the reservoir, and what not.

It is not to be denied that the covenant of God with Noah on this occasion covers the whole transaction ; including the promise of a blessing, the grant of animal food, the ordinance in question, the command to be fruitful and multiply, and the assurance that there should be no future deluge. Now of this covenant God expressly says that it was meant for perpetual generations, as long as the world should stand, an everlasting covenant.

The comprehensive application and perpetual obligation of this law, for Noah, and his posterity to the end of time, unless revoked by the Divine Legislator, are as unquestionable as the right to eat animal food. This right was granted to Noah and his posterity for all mankind to the end of time, unless expressly revoked by the Divine Legislator. Does any man doubt it ? Does any man believe that the grant to eat animal food was made only to Noah, or only to that generation, or only to the Hebrews ? But the same arguments, which would throw off the binding force of this statute, would destroy the permissive force of this grant. You cannot show from this passage, that it is lawful for us to eat animal food, if you cannot also show that

it is binding on us to punish the murderer with death. You cannot point out, in God's after-legislation, any statute, which either revokes the grant or repeals the obligation. If its obligation ceased at any time, or with any race, *when* did it cease, and how did men know it? That the law continued to be fulfilled, we know from all history, both sacred and profane; when, or how, or by what agency did it cease to be a law, though its fulfilment continued?

In the terms of the law itself, there is positive proof that it remains, and is binding now. The common sense of law lays down a maxim, which no lawyer would set aside, on which this permanence may be established. It is this—*lex stat dum ratio manet*; the law stands while the reason remains. What was the reason for this law? Does that reason remain? The reason is connected *with* the law, and is given in God's own words; *for in the image of God made he man*. Does this reason still exist? Then assuredly, the law is still in force; for, however *men* may act without reason, and change without reason, God does not. The law remains while the reason remains.

This was in part the meaning of our Savior, when he said that not one jot or tittle should pass from the law, till all should be fulfilled; till its purpose should have been accomplished, or the reason should have ceased to exist. Are we made in the image of God? Then, on the strictest principles of reasoning, this law is still in force. A government now, is as much bound to put to death the man who kills his fellow-man, as the government, of whatever nature you choose to sup-

pose it, to sustain the authority of which this law was first promulgated. A government attempting to set aside or do away this law, transcends its sphere; it legislates against the divine legislation. It has no more right to do this than it has to abrogate the law against stealing. It is as great a solecism to commence the reformation of human legislation with the abrogation of this law, as it would be for a preacher of the gospel to commence the reformation of human society, by denying a divine revelation.

This law is as obligatory as any statute in the decalogue. Its authority, like that of the decalogue, is demonstrable, because the precept is a moral duty; a moral duty to society, a duty which a benevolent and wise regard to the interests of society renders binding. It is just as demonstrable as the authority of the principle, "thou shalt love thy neighbor as thyself." But it has one point in its favor over and above the decalogue; because it was addressed *formally* to all mankind. The decalogue was *meant* for all mankind unquestionably; its essential nature, as necessary for man's highest interests, proves this. The *prefix* to the decalogue was limited; Hear, O Israel. The *prefix* to this statute against murder, was addressed to all the inhabitants of the world. In fact, this is one of the laws of the decalogue itself, with an invariable penalty stated. It is neither more nor less than the law, Thou shalt not kill, with the penalty for killing fixed by the lawgiver. This statute to Noah, and every statute in the decalogue, stands on the same basis of moral goodness, by the same moral necessity. The statute springs

out of what I may call the necessity of love—the necessity of watching over and protecting the welfare of society—the necessity of protecting the innocent against the passions of the depraved. The nature of goodness compelled the promulgation of this law. But a law is nothing without a penalty ; and the same goodness that necessitates the law, necessitates also the penalty and the enforcement.

PROOF AND ILLUSTRATION OF THE MEANING OF THIS  
STATUTE FROM THE SUCCEEDING LEGISLATION AMONG  
THE HEBREWS.

Suppose now, that an intelligent being, having heard the first promulgation of this law to Noah, should have been transported to some distant quarter of the universe, not to return to this world for the space of twelve hundred years. Would he expect to find this statute in existence ? And if he did find it in existence, with other similar statutes founded on it, would not this be an additional proof, if such were needed, of the universal and perpetual intent and obligation of this law ? Let us then take the place of this supposed angelic being, and visit the world after twelve hundred years have passed away. We will not go to any barbarous, inhuman part of it, for you might say that such a race had interpreted this statute according to their own cruelty and ignorance. There is a bright spot on the earth's dark surface ; you may know it by the mountain cedars, and the groves of palm trees. A supernatural radiance rests upon it, and a wall of light infolds and

circles it, reaching from earth to heaven. There is a temple there, but in it no idol is to be found ; but only the sublime presence of the invisible God ! Now let us open a book of the legislative wisdom of this elevated and favored people. " Whoso killeth any person, the murderer shall be put to death by the mouth of witnesses. Ye shall take no satisfaction for the life of a murderer which is guilty of death ; but he shall surely be put to death. So ye shall not pollute the land wherein ye are ; for blood, it defileth the land ; and the land cannot be cleansed of the blood that is shed therein, but by the blood of him that shed it. Defile not therefore the land which ye shall inhabit, wherein I dwell ; for I the Lord dwell among the children of Israel." Num. xxxv. 30-34. Does this look like the abrogation of this law, or the cessation of its binding power ? Nay, is it not the same law repromulgated far more explicitly, with the same reason annexed ? " I the Lord dwell among the children of Israel." How remarkable is this language ! How remarkable the inference ! The more closely and nearly God condescends to dwell on earth among his creatures, the more invariably must this law of death to the murderer be executed !

Here I wish it to be distinctly understood, that in all reference to the Mosaic institutions so called, I make it not to gain from them a sanction for this law, but simply to show the light which they throw upon it. The law would stand upon the same unquestionable authority that it does now, if the whole mass of revelation between the book of Genesis and the gospel of Matthew were annihilated. But the *illustrative* character of the evidence

is wonderful. It is precisely like that which would be gained for any human law, by tracing in accordance with it a whole body of precedents and conclusions uninterrupted and unquestioned for hundreds of years.

There is a great distinction between the common law of the world expressed to Noah, and local enactments for particular reasons among the Hebrews. By those enactments we are not bound. The authority of the decalogue we do not put upon the fact that God gave it to the Jews, but that its principles are eternal, universal.

But perhaps you will say, This after all is but the childhood of society; the race is only struggling towards the perfection of humanity; these are but tentative processes in legislation, which must wait to be perfected in the nineteenth century. Let us then leave the world to its progress a thousand years longer. Where are we now? and what is the condition of humanity? The Creator and Savior of the world himself is there; God manifest in the flesh, the Wisdom and the love of Eternity, shedding its radiance through the veil of human nature, adopted in mercy to mankind. His words are all those of love, and God is love; and yet he speaks of death as well as life, of wrath as well as mercy, and threatens the one while he promises the other. You find at this period of our Savior's abode in Judea, a great abuse of the whole law with all its penalties, for the purposes of private revenge. Does the present Lawgiver abrogate this statute? No! He condemns most severely the *spirit of revenge*, but *confirms* the law, and corrects the mistakes of any who supposed he would destroy it. "Think not that I am come to destroy the law



or the prophets ; I am not come to destroy but to fulfill."

PROOF AND ILLUSTRATION FROM THE EPISTLE TO THE  
ROMANS, AND FROM PAUL'S EXAMPLE.

Step now, thirty years after the crucifixion of this blessed Being, into the zenith of civilization and splendor, the capital of the world, and there listen to a new voice of revelation on this subject. "Let every soul be subject unto the higher powers. For there is no power but of God ; the powers that be are ordained of God. Whosoever therefore resisteth the power, resisteth the ordinance of God ; and they that resist shall receive to themselves damnation. For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power ? Do that which is good, and thou shalt have praise of the same. For he is the minister of God to thee for good. But if thou do that which is evil, be afraid ; for he beareth not the sword in vain ; for he is the minister of God, a revenger to execute wrath upon him that doeth evil." Rom. xiii. 1-4.

Two things are to be specially noted in this passage ; the Divine origin of government as an ordinance of God ; and the power of inflicting death as the minister of God. If these two things be not recognized in this passage, then there is no meaning in it. The sword, as the symbol of power in the magistracy, indicated not an inferior power, merely ; but the well-known highest power of life and death, which, as in all such cases, is taken as the symbol. This power Paul sanctions under the

Christian dispensation, as springing from and sustained by the ordinance of God. There is no other possible view that can be taken of the passage. There is in it no suggestion of any repeal of any law—no appeal to the milder genius of the Savior's dispensation—no appeal to the sermon on the Mount—no retreat from your savage genius of the Old Testament to the mild, forgiving spirit of the New ; but an unhesitating, explicit recognition and re-promulgation of the lawfulness and divine authority of the punishment of death by the magistrate, as the revenger of crime, the minister of God to execute wrath upon the guilty. The phrase "bearing the sword" could have been understood by those to whom Paul was writing only as referring to the power of death. The Roman government had not abolished capital punishment, nor was Paul writing to a community of Quakers. He was writing to those who would inevitably have understood him to reiterate as belonging to the magistracy under the Christian dispensation that power to take life, with which society was invested of God under the Noachic and the Jewish dispensation.

Let this argument be carried one step farther in order to test it in Paul's own conduct, and it becomes perfectly decisive. In his own person, at the judgment bar, Paul fully recognizes the justice and solemn authority of the penalty of death. "If I be an offender, or have committed anything worthy of death, I refuse not to die." Acts xxv. 11. Paul supposes that there are crimes worthy of death, and that a human government may rightly inflict the penalty of death for such crimes ; he requires a legal investigation in his own case, and if

by such an investigation, he be found to have done anything which deserves that penalty, he does not refuse to suffer it, he is willing to die. The argument thus tested in Paul's own experience, is perfect. It is incontrovertible, that so far from there being any abrogation of ordinance given to mankind through Noah, either in the letter, or by the spirit of the Christian dispensation, we find, in the very opening of that dispensation, a new and distinct promulgation of the same. Nor is this to be wondered at: for the legislation of God with Noah was as purely benevolent as the precepts of our Savior's sermon on the Mount.

SUSPICIOUS NATURE OF ANY ARGUMENT WHICH BEGINS BY  
DEPRECIATING THE AUTHORITY OF GOD'S WORD.

As to the light which this ordinance sheds upon the divine government, and the radiance which it pours over questions of the highest moment in human affairs, it is, amidst all the depravity, darkness, and bewildering schemes of men, like a sun shot into chaos. It is an orb of light. The attempts to destroy it are just as if you strove to pluck the planets from their places. Nor are the arguments by which its divine obligation is sought to be avoided, restricted, or explained away, any better than the false humanity that characterises the effort. An argument, which begins with a depreciation of the authority, or the excellence of any part of the word of God, is, from that very circumstance, suspicious. It would be better to yield up the whole benefit of an appeal to divine truth uncontradicted,

than to endeavor to ward it off by cavils against its authority, or sneers upon its barbarism. They who speak thus either of the Noachic or the Jewish economy, speak both ignorantly and presumptuously. There has never been a regulation under God's authority which was barbarous or injudicious. It was ever the highest wisdom ; but divine wisdom itself is not an abstraction; but in its exercise regards circumstances : and therefore, if any enactment be manifestly local, the question we have to ask is not, Was such an ordinance meant for us ? but, how far are our own circumstances so similar to those of the men for whom it was intended, as to make it applicable to us, wise for us ? The remarks of a great philosopher on the Jewish economy, one who will not be suspected of religious prejudice, or blindness, are worth consideration. It is Schlegel, who has observed on this subject, that "in practical life, Reason serves as the divine regulator, in so far as it adheres to the higher order of God. But when it refuses to do this, and wishes to deduce all from itself, and its own individuality, then it becomes an egotistical, over-refining, selfish, calculating, degenerate reason, the inventress of all the arbitrary systems of science and morals, dividing and splitting everything into sects and parties." The same great writer has observed of the whole existence of the Jewish people, that "the keystone of its moral life projected its far shadows into futurity;" he might have observed the same of the ordinance given to Noah, which indeed is the keystone placed by divine wisdom in the magnificent arch of human legislation

constructed from on high. This, too, according to that noble expression, projects its far shadows into futurity; it is a prophetic miniature of the key-stone of divine justice and goodness in the government of God in eternity. You may see here an image of the infinite, in the finite, even as you may see the whole cope of heaven reflected in a dew-drop.

**THE GREAT SACREDNESS AND PROTECTION OF HUMAN LIFE  
PRODUCED AMONGST THE HEBREWS BY THIS STATUTE.**

I have now proved to you the original, comprehensive ordinance unshackled, unrestricted, bold, universal, in an authoritative annunciation as simple, clear, conclusive, as any command in the decalogue, with reasons as manifest, with cogency as great. I then prove to you afterwards additional particular statutes framed manifestly under the authority of this universal statute, in the legislation of a people who received this first book containing it as one of the portions of the Divine law; and this particular enactment as belonging to themselves, as one of the great families of mankind sprung from Noah;—which local statutes, though restricted to the Jews, look back to the great original statute as their fountain, and prove incontrovertibly that thus far that statute had never been repealed. I show these statutes to you couched in such terms, accompanied with such remarkable declarations as to the guilt of murder, that even in local enactments this crime has been manifestly singled out and held up to the world as an exception to all others, in admitting

no reprieve or repeal in any case whatever from its assigned penalty. There are no deeper colors, in which the pencil of inspiration itself is ever dipped.

It is astonishing to mark the jealousy of the Divine Being, lest the sympathy of his fallen creatures with sin, and their mistaken pity for the murderer instead of the murdered victim, should turn the course of justice from its prescribed channel. Doubtless the Divine Legislator had observed an unwillingness to follow his supreme wisdom, a readiness to connive at crime and clear the guilty, a readiness on the part of witnesses and of judges to perjure themselves, a sympathy produced partly by family influence, partly by the declamation of demagogues, partly by infidelity, and partly by the plausible pretence of a benevolence superior to God's. For a season, these explicit statutes prevailed to check these influences, and stay the crime of murder, so that, under the administration of the Judges it was so uncommon, that the whole nation from Dan to Beersheba rose up in a complicated case, to punish it. A noble state of public opinion, and produced entirely by the salutary power of these laws. But in after times the law grew again to be neglected, and this remissness in its execution is charged, against the nation as constituting one of its greatest sins, this carelessness of human life, and this permission of bloodshed without avenging it. Your hands are full of blood, says the prophet Isaiah, unavenged blood, and therefore you may be ever so religious in your prayers, but God will not hear them.

It is described as one of the characteristics of a reli-

gious man, which shall dwell on high, that he shutteth his hands from holding bribes, and stoppeth his ears from hearing blood; will not, for one moment, listen to anything; but the execution of the Divine law upon the murderer. All this is remarkable. And all these instances are proofs of the admirable character of the Jewish code: in no nation in the world, while it was observed, had human life any sacredness or protection compared with that experienced among the Hebrews. And in the period of that nation's greatest prosperity, the feeling of such sacredness, and the sense of the Divine law, had sunk down so deep into the soul of people and king, that David, about to depart from life, could not rest, while he remembered that the crime of murder in one of his own captains had gone unpunished. He was compelled by the invisible Spirit of Law and Justice, and Humanity too, to leave it as his dying injunction to Solomon, that the blood of Amasa and Abner, whom Joab slew, should be avenged as the Divine statute directed.

THIS STATUTE REPROMULGATED AND ESTABLISHED IN THE  
NEW TESTAMENT.

Passing now from the argument among the Hebrews of the old dispensation, I carry you down to the period of the great re-enactment and publication of the Divine law by the Savior, its repromulgation under the form of love—which quality is the basis of all Divine legislation; for the restraint and punishment of vice in the vicious, grows out of love to the virtuous; and I prove

to you that at that time, and all along, before and after, there were cases of capital punishment, and that the authority and power of capital punishment is held undiminished, and of divine origin and sanction. I prove to you that in the time of the apostles this power is recognized as belonging to the magistracy, so that Paul apparently almost goes out of his way to reiterate it, and to hold it up as the highest delegation of power from God to man, emanating directly from the Divine Legislator. And I show you, that so far from any appeal being taken from this law to the law of Christ, it is confirmed by the gospel; and that, so far as our blessed Lord remarked upon the Mosaic institutions, it was not to condemn them, but the rapacity, cruelty, and oppression of the Jews abusing them, and turning their spirit of justice and love into malignity; not to repeal a single one of them, but to regulate their application. I prove to you, that even if our Lord had stricken out, with his own hand, any one of them, this would not have lessened the authority of those that remained; for till the same hand should blot them all away, no human authority should dare to do it. So that, as long as there cannot be found the slightest reference by our Savior to the law of death for murder; except it may be where he declares that they that take the sword shall perish by the sword, which saying, so far as it goes, is a reiteration of that law; even if he had said distinctly as to the law of retaliation by an eye for an eye and a tooth for a tooth, It is all done away; which he never did say, but simply rebuked the spirit of private revenge making use of that law



as its instrument or for its concealment; this would not have the least bearing on the penal statute for murder, either to question, restrain, limit, or repeal it. Even supposing one statute of the Divine law repealed by its author, who dare take this example, and follow in the repeal of another, without a direct command from the Deity? This mode of reasoning is altogether presumptuous and incorrect.

The precepts of our Savior are sometimes urged as if really the Spirit of God and the Spirit of Christ were contradictory. When the Savior says, Thou shalt love thine enemies, it is the same benevolence which speaks, The murderer shall surely be put to death. When God says, Resist not evil; Rep recompense to no man evil for evil; Vengeance is mine, I will repay, saith the Lord; he speaks to individuals and not to the civil government; there could not be a more perfect obedience to this command, than when the avenging of the blood of a murdered man is put into the hands of the government, and God's own penalty is executed. This is God's own vengeance; this is God repaying, and not man. Your obligation to love your enemies, is no greater than your obligation to love the community. This train of thought is admirably developed by Rev. Mr. Thompson of New Haven. What it may be wrong for you to do as a private individual, it may be wrong for you *not* to do as a *citizen* or an officer of justice. You have no right to inflict a personal injury upon your neighbor, but to love him, though he be your enemy; even if he have murdered your own brother, you are bound to forgive him the

injury yourself; but you are also bound to bring him to justice. If you are a magistrate, and your neighbor or your enemy is brought before you charged with an offence against the laws, you are bound to inflict an injury upon him, by the penalty of law, and if the crime be murder, by death. If your dwelling should be set on fire at midnight, and one of your children murdered by your enemy, the Spirit of Christ commands you to forgive him personally, but it commands you also not to shield him from the penalty of the law. The same Spirit of Christ commands you, as you love the welfare of the community, to bring this murderer to justice, to have him arrested and put in prison to receive his doom. You yourself would be an enemy to the community, if you connived at his escape.

CONCURRENT PRACTICE AND OPINION OF THE WHOLE  
ANCIENT WORLD.

I have dwelt upon the existence of this law through the whole course of Jewish legislation, and the continual reference to it in the stream of Divine revelation. I cannot dismiss this point without noticing the strong corroboration our argument receives from the consentaneous legislation of the world from the time of Noah.

We have the unanimous concurrence and practice of the whole ancient world to sustain our interpretation of the Noachic ordinance. We have in the stream of Pagan and classical literature, a continual reflection and memory of its light. "Philosophers, legislators, poets," speak in the words of one of our distinguished native scho-

lars, (Prof. Taylor Lewis), "all speak of it as derived from primeval tradition, and as coming from a source transcending the memory of history. It is the very precept which Aristotle produces, and with a striking resemblance in some of his terms to the language of the Bible, as an example of what he styles unwritten law, not peculiar to Athens, or Macedon, or Persia, but coextensive with mankind, and found among all nations, civilized and savage. The ancient poets, better expounders of the natural sentiments of mankind than the philosophers, ever speak of it as a law having something peculiarly sacred and holy about it, and differing in this respect from all other statutes, thereby intimating that special Divine origin of which we have so precise an account in the Bible."

TENOR OF THE GRECIAN POETS ON THIS POINT, AND ILLUSTRATIONS OF THE JUDGMENT OF THE HUMAN MIND, IN THE CASE OF THE INHABITANTS OF MELITA WITH PAUL.

I may add to this, that the voice of the Grecian poets especially, recognizes the proverb that "Murder will out;" and is an echo of that deep utterance, which God himself interpreted of inanimate nature, "*the voice of thy brother's blood crieth unto me from the ground.*" You may find in the Greek poets a constant reverberation of that voice which in the book of Proverbs comes from heaven: "A man that doth violence to the blood of any person, shall flee to the pit; let no man stay him." It seems to be a law of the human mind, in the natural, social state, to sleep not, to rest not, until the spirit of the murdered victim is answered

in this appeal. There is an instinct for the punishment of murder by the death of the murderer; Cain himself manifested its power and its terror, when he said, "Every man that seeth me will slay me." The inhabitants of Melita manifested its power when they said, in the very spirit of a chorus in the Greek Tragedies, and of the word of God itself, as they saw the viper fastening upon Paul's hand, "No doubt this man is a murderer, whom, though he hath escaped the sea, yet vengeance suffereth not to live." The word here means not so much vengeance, as the invisible, Divine Avenger—the ever-watchful Deity of Justice. This is one of the most remarkable expressions to be found on record, of the sense in the minds of the heathen, of the existence and providence of such a power. I may add, also, that this is an equally signal development of the innate idea of right, as applied to punishment. These men did not think of the good of society or the necessity of punishment for its protection; but they said, This man is a murderer; he *ought* to have been put to death; justice required it, and now justice hath overtaken him. In this they simply uttered the innate feeling of right—the inward sentence of the soul, to which every soul responds. It is right that the murderer should die. There was nothing vindictive—nothing revengeful in this feeling. It is the constitution of our nature to make us feel that crime demands punishment; it is not merely a suggestion of expediency—it as an instinct of our being.

To the argument from the scriptures I shall now add one more text, because standing at the close of

the Bible, it completes the golden chain of argument, running like a furrow of light through the whole Bible on this subject, from Genesis to the Apocalypse. It is this, from the Revelation of St. John, xiii. 10: "He that killeth with the sword must be killed with the sword." It is powerful for two reasons. First our marginal annotators, without any point to gain or any special pleading, have referred us for a scriptural comment on the meaning of this passage, to the ordinance in Genesis. Second, the impersonal Greek verb *dei*, which is here used, carries with it the sense of necessity, propriety, fitness, moral obligation. He that killeth with the sword, must, ought, shall be killed by the sword. This also is very like that proverb which I have quoted: "He that doth violence to the blood of any person shall flee to the pit: let no man slay him." *7*

CONSIDERATION OF THE SLANDER THROWN UPON THIS STATUTE AS IF IT WERE VINDICTIVE—BENEVOLENCE OF THIS STATUTE.

This brings us to the consideration of the slander thrown upon this statute as if it were malevolent, revengeful, vindictive. The sophistry of our opponents is often mainly deployed upon this point. You are pleased to call it vindictive, and in this way seek to array against the punishment of malice, that feeling of indignation, which rises in a just mind against malice itself. Now it is perfectly clear, that in this legislation there is nothing malicious, nothing vindictive. It proceeds from love, from benevolence, from the absolute, humane necessity of preventing crime, and guard-

ing the world against it. Of all processes of law, that in which the murderer is condemned to death is the most solemn, deliberate, compassionate. The law never shows its majestic combination of immutable sternness, with the constant play of human sympathy more clearly. The benefit of every doubt is allowed to the prisoner; the court, judge and jury all wish that he may be proved innocent; the verdict of guilty is pronounced with hesitation and sorrow; the judge declares the sentence with reluctant humanity; the whole community, pressed on by the invisible, sublime power of that element, whose agency supports the universe, do nevertheless shrink back in horror and pity from the awful conclusion. All this proves at once the absence of every vindictive element; but demonstrates at the same time, the protective and salutary terrors of the punishment. The impression on the community is a most deep, salutary, beneficial one. The image of divine law and divine retribution is reflected as in a mirror to the inward prophetic vision of the soul. The thought of vindictiveness is the last that would enter the mind; the thought of the dreadfulness of the crime of murder, and the awfulness, immutability and certainty of justice, in its punishment, is roused. If any just penal inflictions *could* suggest the idea of vindictiveness, there are other modes of punishment which would do it much more readily. Punishment by death is no more vindictive in its nature than imprisonment, than fine, than banishment. But the word itself is a sophism. It does not belong to justice which is *vindicating*, but not *vindictive*. When you

apply it, you are guilty of a deliberate misstatement ; you appeal to prejudice by an argument which you must know to be false.

It is not only not vindictive, but it is humane in the highest degree. That is true humanity, which looks to the highest good of the greatest number. In this view, all penalties of the divine law, and all just penalties of human law, are the offspring of benevolence. Your frowning prisons, in which living men are immured in a death to society, to love, to domestic tenderness, to nature, to the sweet changes of the seasons, to all that can render life desirable, on your reasoning are inhuman and vindictive in the last degree. The element of malice, if you charge it against the penalty of death, is more marked and manifest by far, in this penalty of a living death in perpetual imprisonment. When one of the trusted ministers of Louis XI. had betrayed his master, that tyrant<sup>†</sup> kept him fourteen years in an iron cage in one of his grim castles. There was more vindictive malice in that act than in twenty executions. In all forms the just penalties of law are not vindictive, but benevolent.

#### MISTAKE CONCERNING THE NATURE OF BENEVOLENCE.

There is no mistake more general, than that concerning the nature of benevolence, the monstrous mistake of supposing that benevolence cannot punish. Nor is there any statute of the Divine law better adapted to correct that mistake, than this statute of capital punishment. The highest proof of malevolence would be not to punish, but to let sin prevail. In this

view, the evil which in this world follows the commission of crime, the evil which is attendant on sin in all its forms, is a necessary part of the demonstration of the Divine goodness. This being a world of sin, if it were not also a world of misery, you could not prove that God is a benevolent God. A being not benevolent would let mankind go on in their sins without any check. The miseries of mankind do, in this view, prove the goodness of God; and instead of needing an explanation or apology, as if they constituted a difficulty in God's government, they are absolutely necessary to demonstrate that we are under his government. They prove that a being of infinite goodness is at the head of affairs. Nor is there anything that proves this more truly, than the ordinance that whosoever sheddeth man's blood, shall himself die.

The retribution in this statute is an image of the divine retributive justice in eternity. Into this one statute the principles of the Divine government are concentrated; it is a prophetic image; and those who disregard the statute, and deny its principles, must, according to the warning even of a heathen philosopher, look that they be prepared for a future development, which may very much astonish them. It was Plato, and not a Calvinistic theologian, who said that the laws in the eternal world, the sisters of the laws in this world, will give their enemies a fearful reception in eternity.



CONCLUSION OF THE SCRIPTURE ARGUMENT.—NATURE OF  
THE ATTEMPT TO ABOLISH THIS STATUTE.

Here I must for the present rest the argument, but I leave it on an immovable foundation. The argument from expediency against the abolition of Capital punishment is equally strong, the divine will and wisdom being the highest possible expediency; it will lead me over a path of the deepest interest, both in the statement of the argument itself, and in answering the objections brought against the statute as it stands, where we hope it ever will stand, in our codes of law, and is happily and humanely practised, where we hope it ever will be practised, in our Courts of Justice.


The attempt to abolish it is the array of the opinion of a few persons, at a particular juncture of time, against the dictate of divine wisdom, and the wisdom and experience of all nations, in all states of society, in all ages of the world. It is a hardy enterprise, this opposition, as it has been admirably stated, of the *vox populi* of the present moment against the *vox Dei* of the Scriptures, and the *vox humanitatis* of the whole human race. But the opponents of this law have not even the *vox populi* to sustain them; it is a mistake if they assert this to be the popular opinion; the appearance of it is only the assertion of it by themselves with the unsubstantial echo, but not the voice. I rejoice in feeling sure that this is the case, that the popular feeling, and the benevolent feeling, are in favor of this law. I believe in general, and we have the history of the French revolution to support the opinion, that the very

same men who sometimes clamor the loudest for the abolition of Capital punishment, on account of the vaunted humanity and enlightened public opinion of the day, would be the persons, if a tempest of public opinion happened to sweep in favor of Lynch-law, who would drag a man even from the safety of the prison, and hang him on the nearest lamp-post.

Public opinion may be mistaken, at a particular juncture—often is. And we wish it to be considered whether any one generation of human society is capable of deciding, by its own experience even, the fitness or the unfitness of a law, which God has seen best to promulgate for the human race. Before all experience, we should judge that a legislation intended for six thousand years would very probably pass over intervals of time and phases of society, in which the particular application of its wisdom might not seem so manifest—might possibly be deemed questionable. But should we say that the doubt or the question engendered by particular circumstances, or by one people, could justify the race in altering or repealing such legislation? Should a law intended for a thousand years, be repealed because the experience of one of those years seems to run not accordant with the line traced by the reason of that law? Proportioned to the importance and unchangeable wisdom of this law, is the universality of its publication. There is no nation so barbarous, no period of the world so rude, degraded, ignorant, that has not known it, that has not possessed it, however simple and informal may have been the elements of legislation. There is no nation that has risen to refine-

ment and vigor of mind enough, to embalm in an undying literature, the voice, the opinion, the experience, of morality and prudence, that has not spontaneously echoed and sanctioned this statute, as if it were as much the dictate of man's being as of God's wisdom. It stands at the opening of an early and unpolluted world, before one drop of blood, save that of a hallowed sacrifice, had bedewed the earth, yet fresh and moist from the cleansing deluge. Before there was room for a single emotion but of gratitude and love, it was revealed as one grand element, not of revenge, but of blessing, in the Divine covenant with the human race.

The hand that drew the rainbow over the sky, in sign "that storms prepare to part," wrote this statute in lines no more to be effaced till the destruction of all things, than the colors of the rainbow can be blotted from the sky, while lasts the constitution of this physical universe. And as in every conflict of the elements that might fill men's souls with terror of another deluge, this bow of mercy, this vision of delight, should span the clouds with the glittering arch, so in every storm of human passion, that rises to the violence of death, this statute, as a bow of promise, is God's assurance to the world, against the anarchy of murder. There probably never was an instance of murder in the Christian world, in which men did not think of it; nor ever an instance in the heathen world, in which the voice of conscience did not echo its assurance. As it stands in the Scriptures, it is one of the planets in the firmament of revealed truth; to strike it out from its place, and from its authority for the guidance of human legis-



lation, would be like striking the constellation of the Pleiades, or the bright North Star, from heaven. A great writer has said, with most profound wisdom, that it is only by celestial observations that terrestrial charts can be accurately constructed ; and so, it is only by the divine light that comes down from these divine statutes, that human legislation can be perfected ; it is only by comparison with these statutes, that the mistakes of human prejudice or ignorance can be detected and adjusted. Sure we are, that on the ocean of human passion, neither states nor individuals can be safe, but by charts, mapped and marked beneath the light of these enactments. It is light, like that of the planets, has travelled unaltered and unabated across the storms and changes of thousands of years ; and still it shines, and still will it shine to the end of the world ; for as sure as we are that a God of mercy gave this comprehensive element of law to Noah, so sure we are that he will never suffer it to be blotted from human statute books, by the presumptuous tampering of a single generation.

## ARGUMENT OF THE SECOND EVENING.

In the opening of his second argument, Mr. Cheever, in answer to the cavils of his opponent, spent some time in correcting certain important misinterpretations and misapplications of Scripture. He also critically examined the Noachic statute, and brought additional proof of the grammatical accuracy of our English translation of it, exposing again the absurd consequences of the suppositions by which its binding force is sought to be evaded.

An objection is sometimes brought against the binding and perpetual obligation of the Noachic statute, that if you take it as we contend, you must also take the prohibition not to eat blood. This is worth noticing. I might contend that this is simply a prohibition against a species of cannibalism, for it is not the blood that is forbidden solely, but the flesh with the blood. But I apply to this prohibition the same reasoning as to the injunction. It is of force while the reason for it remains. It was given in reference to the sacrifices which were to constitute the standing type and prediction of the great sacrifice of the Messiah for the sins of the world. To make that rite more sacred, to maintain the idea of the solemnity and sacredness of religious sacrifices, in which so deep and holy a life and mean-

ing was in the blood of the victim, this prohibition was laid down against eating the blood with the flesh. As long as the rite of sacrifices lasted, the force of this prohibition stood, because the reason for it remained ; but when sacrifices and types were abolished, the particular binding force of this prohibition fell with it, the reason for it no longer existing. But this does not affect in the least degree that great injunction of the punishment of death for murder. If the reason for that command could be shown to be no longer existing, then the injunction itself would fall, but not otherwise. *Lex stat, dum ratio manet.* The reason remains. We are made in God's image ; every generation to the end of the world will be ; therefore, on every generation this law is binding.

ENORMITY OF THE GUILT OF MURDER, AND NECESSITY OF A PENALTY THAT SHALL MAKE IT PARAMOUNT IN ITS RETRIBUTION, AS IT STANDS IN ITS GUILT.

There is no computing the enormity of the guilt of murder. It stands alone, and unapproached by any other crime in its atrocity. Its intrinsic enormity, and its dreadful consequences are such that we need not wonder at the language in which it is described and denounced by Jehovah, nor at the penalty of death affixed to it. It is right, it is benevolent, it is necessary, that such a crime should invariably, without any exception in any case whatever, be punished with the extremest penalty of which heaven has annexed the authority to human law. There ought to be such a penalty, high, awful, distinctive, to mark this crime in its *retribution*, as it

stands in its *guilt*, paramount to every other. The conscience of society should be educated in the view of such a penalty; and if it were not, or when it is not, poor and cheap indeed is the estimate placed upon the sacredness of human life.

The object of all punishment is benevolent, it is the well-being of the community. It is to prevent crime by supporting law. The penalty of the law must be an evil, which the man intending crime will balance against the good he proposes to himself by the crime. He must fear the evil more than he desires the good. Do you say that men commit crimes in passion, and that there is seldom this balancing of motives and considerations? I answer, this may possibly be true in regard to all minor penalties, and this is one strong argument for having in the case of murder so terrific, strong, overbearing a penalty, that it shall break down all other considerations, that it may stem the torrent of passion, that the criminal may hear a voice amidst the roar of the tempest of passion commanding him to refrain.

#### STATEMENT OF THE QUESTION OF EXPEDIENCY.

Now, it being granted that the murderer deserves to die, and that society have the right in some cases to inflict the punishment of death, the question of expediency before us is simply whether punishment by death operates more effectually to prevent the crime of murder than any other penalty. Now, then, who are they from whom we have to fear murder? Any man may become a murderer with sufficient temptation; but in

general it is men already hardened by crime, from whom the crime of murder is to be feared ; it is men urged by want, outcasts from society, beings with whom life is already so deprived of comfort, of respectability, of happiness, that a jail with its food and clothing would be almost a relief instead of a punishment, while death would be the most terrific of penalties. It is manifest that there is almost no good motive to restrain such persons from crime. There is nothing but fear that will do it. But the fear of the prison is almost changed into a relief at the thought of its shelter. With the penalty of death it is very different. Here you appeal to a terror as far greater than all others, as the crime itself of murder is greater than all others. "In all secondary punishments," remarks a legal writer, "it is assumed that the convict is well fed, well clothed, well lodged, and well attended to. He may have no luxuries and few comforts, but he has entire security against starvation or want, perfect protection against the weather, and certainty of medical assistance in case of sickness. To the unthinking multitude the secrets of the prison-house can never be fully revealed, and there will always be some room for doubt and hope as to the lot of the convict. The executioner alone inflicts a punishment, of which the sufferings can never be called in question."

I may add to this, that you may put what guards you will about your plan of imprisonment, to make it perpetual, there will always be hope of escape. Criminals sentenced to imprisonment for life, have ordinarily, on an average—if you take this State for an exam-



ple—spent in prison about six years! But even if you made the date absolutely immutable, there will always be murderers, who, with the ingenuity of Baron Trenck, could almost eat their way through stone walls, as easily as they could eat the heart out of their own humanity. Or if not, a villain who will commit a murder that brings him into prison, would not not hesitate a moment to commit one that shall take him out.

POWER OF THE FEAR OF DEATH AS A PUNISHMENT—ILLUSTRATED IN THE CASE OF COLT.

Indeed, there is nothing that can possibly check the spirit of murder, but the fear of death. That was all that Cain feared; he did not say, people will put me in prison, but, they will put me to death; and how many other murders he may have committed when released from that fear, the sacred writer does not tell us. Nor is it anything but this, that the whole progeny of murderers, from Cain downwards, ever fear, nor anything but this fear that ever will restrain them. They fear the same tremendous evil which they inflict on others, but nothing else.

And you may range the whole Newgate Calendar, with the experience of all gentlemen elopers with the estates of heiresses, who, like Gilbert Wakefield, have got into it; and you may tell as much as you please of the insensibility of obdurate villains even in the face of death; but such testimony weighs no more against the power of the fear of death in all mankind, than the testimony of a perjurer and a murderer would weigh against an honest man's testimony in a court of

justice. But if it did weigh, what does it prove ? Why, that, there are such monstrous villains, so steeled and inveterate in wickedness, that death itself has no terror for them ; but certainly if they do not fear death, they fear imprisonment still less ; and if they would murder even with the fear of death before them, much more will they murder when that fear is taken away. Besides, if because a villain says that he neither fears your law nor its deadly penalty, you bring that as a reason for abolishing the penalty, suppose another knot of villains tell you that they do not even fear God, nor his terrific penalty ; the same reason would be just as good for striking that penalty from the government of the universe. Or if another gang tell you that they care not a fig for your perpetual imprisonment, then by parity of reasoning, you ought to abolish perpetual imprisonment. The reasoning from these drivellings of depravity in malefactors is to the last degree wretched and absurd. Hard pushed indeed must he be in argument, who can consent to dive down into the polluted heart of a Newgate criminal, in order to fish up, from the confession of his monstrous, unnatural obduracy, an argument in that very obduracy against the fit punishment of his own crimes.

I think there is a testimony from criminals sometimes elicited as to the real fear of death, which it may be well to set over against all this. It is that rather than die by the penalty of the law, they sometimes kill themselves. But who ever heard of a man killing himself to avoid imprisonment ? What malefactor, whom the officers of justice were carrying to prison, if

the populace should try to kill him, would not cry lustily for help? You cannot believe that the wretched Colt would have killed himself, if his punishment had been merely imprisonment instead of death. Besides, what language was it which was spoken in that hurrying and anxiety to have his sentence commuted, that intense effort on the part of counsel, friends and criminal for this purpose. Well then, a punishment which the criminal fears more than death, must be of all others most powerful to restrain from crime.

But you object that it *leads* to suicide. We answer, that it places suicide itself as a terrific consequence of crime, a terrific form of vengeance uprising behind the shade of the murdered man to the murderer's own view. It places the crime of murder on one side—a public execution or suicide on the other, with no possible alternative. Now the whole system of criminal jurisprudence goes upon the supposition of a future state of retribution, the supposition that men believe it, and that no man will flee voluntarily from this to that. It does not contemplate, and it ought not, a state of society, in which men's fear of a future judgment is taken away. It contemplates that judgment; and its highest last, most awful resort, when men commit the highest, last, most awful crime, a crime from which all lesser penalties are unavailing to restrain them, is to hand the criminal over to that dread tribunal, which alone can deal with him. It seems to me that in this point we have a most solemn connecting link between God's jurisprudence and our own. God's high court has a passage from our inferior one; and in the case of this

crime, it is as if God had said, Here you can do nothing but to hand the criminal over to his last judge ; he has passed that limit, in which it was possible to permit men to sin under the jurisprudence of probation.

OBJECTION CONSIDERED, OF THE UNCERTAINTY OF THE PENALTY.—SALUTARY POWER OF THE PENALTY OF DEATH FOR MURDER, AS CERTAIN.

I am not now arguing for the restraining power of an uncertain penalty, but of a penalty, which, restricted to the crime of murder, shall be made absolutely certain. One of your objections against punishment by death is the uncertainty of its execution, and that this uncertainty renders the penalty itself ineffectual. Very true ; and this very uncertainty, and the consequent weakening of the power of law and of its protective energy to the community, is in part owing to men's injudicious efforts against this penalty. They act some of them from a warm heart, no doubt, but not from a wise and large philanthropy. This uncertainty, with all this whimsical scrupulosity of jurors, is not a little produced by that mawkish sensibility, which weeps over the fate of the murderer, but forgets the murdered victim, and neglects the protection of the innocent.

Now to test this fear of death, and its power for preventing crime, put aside these uncertainties, from whatever cause produced. Make the penalty certain. Suppose the intended criminal to know that the public eye is on him, that Justice will not sleep till he be detected, that such is the virtuous state of feeling in the community, such the regard to God's law, such the sense en-

tertained of the sacredness of human life, and of the enormity of the crime of murder, that no effort or expense will be spared to bring him to justice, and that if brought to justice, he will inevitably be executed; that no jury will entertain any false scruples, that no false sensibility will be exercised towards the murderer, that no deputations from the bar will be hurrying to and fro for his pardon, but that there will be such a humane regard for the murdered victim and the interests of society, as will surely avenge his death—I say, suppose all this, which is what we contend for, and then the murderer sees at once that to take the life of another man is just to take his own. He might just as well commit suicide as murder. He plunges the dagger into his own bosom, when he strikes it into that of his neighbor. And how often do you suppose he would thus strike it if this were the case? Why, it would restrain the angriest, most passionate malignity. The truth is, it would be the very perfection of jurisprudence, if you could make murder a suicidal act: the crime of murder would well-nigh cease from existence. Put your statute on the right basis, and you do make it such. Throw away your absurd reasonings, your cavillings against the laws of God and man, and make the execution of the penalty of death for murder absolutely certain, and its restraining power against crime is immeasurable. This is the reformation we need; not the abrogation of this penalty, but the putting it where God puts it for all mankind, as the penalty alone for murder.

THE PROTECTIVE POWER OF THIS PENALTY FOR SOCIETY.

—NECESSITY OF HAVING THE GREATNESS OF THE GUILT OF MURDER MARKED TO THE CONSCIENCE OF THE MURDERER, BY THE PENALTY.

I have proved the restraining influence of this penalty in preventing crime. Next as to its protective influence for society. It is manifest that this is just proportioned to its restraining influence over the criminal. Whatever prevents crime, protects society. Now, your abrogating course is so far from giving society protection, that it is almost an invitation to murder. Let us trace the course of things. *Nemo repente fuit turpissimus*. No man becomes a murderer at once. A man begins his career with small steps. From his father's house forth into the wilderness of crime he goes timidly. But the tenderness of his conscience is gradually destroyed, and one crime and another is committed it may be with impunity. The penalty of discovery he has often faced, and become accustomed to look at it calmly and to balance consequences. Disgrace, fine, imprisonment, all these are evils that may be borne. If the worst ensues, still life remains, and there is hope in ingenuity, and even in guilt. But at length his steps in crime have brought him to the verge of murder. His victim is before him. Perhaps it is a rich, gray-haired old man, sleeping calmly in his bed at midnight. The dagger is lifted. Now, between this crime about to be perpetrated, and every lower crime, there is a vastness of separation which the mind cannot fathom. It is invested with horrors; it puts

whole coils of serpents in the conscience ; it has a redness and a blaze of guilt, which, if any symbol could mark them, ought to be set up in open day to the universe, ought to be made to flash like a sword of fire upon the soul. But your hardened man of guilt does not see this. And what have you done to remind him of it ? What separating wall have you raised to keep his soul from the damnation of this guilt, of which God himself hath said that no murderer hath eternal life abiding in him ? He has come to the verge of murder. What is there now to stay him ? What writing on the wall, what external sign, what additional terror to rouse up his conscience, and show him the tremendous depths of the gulf he is about passing ? What is there to show him that the step he is taking is not one of his previous degrees of crime, but a convulsive, awful sweep of his being into a depth of guilt, compared with which the whole previous iniquity of his life is as nothing ? You have put no mark here. You have torn down the barrier, which God himself had erected in mercy to the criminal as well as to the innocent. You have taken away the landmark, the warning which God himself has put up for all mankind, and which assuredly marks a mightiness of guilt and of terror in the next step of evil, which nothing but the wide difference between the penalty of death and every lower penalty could mark. You must have such a mark ; the soul of humanity calls upon you for it ; the blood of every murdered victim crieth from the ground ; you are guilty of a monstrous iniquity if you blot it out ; for there is no comparison between the

madness, the ruthlessness, the monstrosity of murder and every other crime. In mercy to your fellow-creatures, you are called on to distinguish it from every other, by a penalty which, like that statute of God—that statute of mercy at the world's opening, stamped the conviction of its iniquity into the soul of mankind.

I have taken the case of a man whose successive steps in crime have brought him to the verge of murder, as a new and separate guilt. But suppose him to be brought to the verge of murder while in the commission of some other crime, and in order to conceal it, then the argument becomes vastly more powerful. While the Tempter is whispering, If I take this man's life, I may conceal my crime, conscience and the law should answer, You die for it. The ministers of justice will be infinitely more keen in your pursuit, the eyes of the whole community will be flashing for you, mere suspicion will detect you, your own conscience will lead you to discovery; and death, temporal and eternal is before you. The motive for the concealment of crime is so powerful an incentive to murder in such a case, that we are bound to guard against it. But to abolish this penalty is directly to throw the temptation of murder in the way of a criminal, who, perhaps, otherwise would not have dared to think of it, even for the concealment of crime. To abolish this penalty is to make murderers out of common villains. They will murder to conceal their other crimes, as soon as you reduce the penalty for murder to the same level with that for others. The penalty for murder being no greater, they are no worse off, even if dis-



covered. Without the murder, perhaps discovery is inevitable, and imprisonment must ensue. With the murder, even if discovered, the penalty can be no more than imprisonment. But by the murder the whole crime may be concealed, and the murderer may come off completely clear. It is manifest in such a case that nothing but this penalty can protect society.

INJUSTICE AND INHUMANITY OF THE ABOLITION OF THE PENALTY OF DEATH FOR MURDER.

I have shown that this penalty is necessary for the restraint of crime and the protection of society. I shall now show that the proposed abolition of it is unjust and inhuman in the last degree. It is a policy, the cruelty and barbarism of which is susceptible of a perfect demonstration. It introduces the element of inhumanity into the very education of society. Your jurisprudence is a most important part of your education for the community. It trains the common conscience. But in the abolition of this penalty, you occasion a general degradation of the moral sense; you teach that there is no difference between the guilt of murder, and that of mere forgery and stealing. You lessen men's estimate of the sacredness of human life, and you are unconsciously training men's passions for the cruelty of murder. You degrade the whole subject and science of morals; for this is at the foundation of it, involving all its principles. You give place and full swing to duelling, bloody riots, and private revenge. What you refuse as a government to do for the family and friends of the murdered man, and for the interests

of the community, you may be sure the malignity of private revenge will not fail to accomplish. You take away the strong security of your police, and you expose the lives of your jail-keepers to imminent hazard. A most faithful and vigilant police officer, since the abolition of capital punishment has been spoken of as a probable thing, has had his own life threatened, and the lives of others in his presence, and when he has told the villain that his own life must pay the forfeit of such a crime, the answer has been, "There is no fear of that in these days." The police officer added, that if the law should deprive him of this protection, he should be afraid to go to haunts of crime, which in the support of the law, he now visits. Who indeed, who a public servant, either in this city or in London, would dare plunge into the recesses of crime to ferret out the villain, if the strong fear of this penalty did not go before him?

OBJECTION CONSIDERED OF THE DANGER OF MISTAKING THE INNOCENT FOR THE GUILTY.

Your zeal for the abolition of this penalty may be the zeal of love, but it is the logic and philanthropy of cruelty and murder. It is a most inhuman neglect of the interests of the innocent, to save the forfeited lives of abandoned villains, the example of whose security will sharpen the appetite of all other murderers, and who will certainly themselves murder again, if they can get out of prison. It is a philanthropy that pays no regard whatever to the unquestioned fact that thousands of murders have been prevented by this pen

alty, thousands of innocent men saved, and innocent families preserved from the stab of the assassin, but with a morbid, diseased, pseudo-benevolence it rakes the records of crime for those mistakes to which human imperfection necessarily exposes human legislation, and if in one hundred cases false executions can be made out in two thousand years, it regards the lives of a thousand innocent persons saved from the murderer as nothing in the comparison. Ten innocent persons killed by mistake in two hundred years, are more than a balance against the lives of a hundred innocent persons who would have been killed by the murderer, had it not been for this penalty. The truth is, your statistics and calculations of profit and loss on human life, are, as has been admirably said, the arithmetic of Judas Iscariot, the calculations of the price of innocent blood.

Now that I have met this objection of the danger of mistaking the innocent for the guilty, allow to me to demolish it more fully. There is the same danger against all punishments. False *imprisonments* occur, and are not discovered till many years have elapsed. Is that an argument against imprisonment for crime? Suppose you could be assured that there had been one hundred cases of false imprisonment for life in the course of English jurisprudence, would you deem that a justifiable ground for the abolition of imprisonment for life? But let us grapple a little closer with these cases. They are given, most of them, in a former edition of Phillip's Treatise on Evidence, and they constitute, it has been said, the stock in trade of the prisoner's counsel in all murder trials. "Whoever will exa-

mine these cases, will find that in almost every instance, except those in which the *corpus delicti* was not found, and it appeared afterwards that no murder had been committed, the real culprit has taken away the life of the innocent prisoner by perjury, or, which amounts to the same thing, by arraying and directing a set of circumstances so as to implicate him. The amount of it is, that the murderer, in addition to the murder already committed, has made use of an institution of justice, instead of the assassin's knife, to perpetrate another. There is, in such cases, an additional murder committed, not by the law, nor by its ministers, nor yet by the State, which gave them their authority, but by the wretch, who has brought upon himself the guilt of a double murder to prevent the detection of one. There may therefore occur now and then, with extreme rarity, an instance in which a murderer will seize upon this law to commit another murder, for the purpose of screening the one already committed." But if on this account, you abolish the penalty of death to avoid these cases of murder in the second instance, you at once increase the number of murders in the first instance. You relinquish the reality of justice to snatch at its shadow. This objection is not good against the penalty, though it is of use in enjoining the utmost carefulness in criminal trials; but still we must keep the law, because we are certain that the abrogation of the penalty would lead to tenfold more murders, than can possibly be committed through the abuse of it. The example of our Savior is in point in a case analogous. The Jews in his day abused the law and its penalties

for their purposes of private revenge. Did he on this account abrogate the law, or take away the penalties? Not at all, but confirmed them both, while he forbade the abuse of them.

DEMONSTRATION CONTINUED OF THE INHUMANITY AND INJUSTICE OF THE ABOLITION OF CAPITAL PUNISHMENT.

Having disposed of this objection, I proceed now to prove more fully the injustice and inhumanity of the effort for the abolition of this penalty. You are unjust, if you do not give to society the same means of self-defence against assassins, which they relinquish for the protection of the government. Men do not wear arms—but why? Because of the solemn assurance that the government will protect life in the same way, if need be, in which weapons of death protect it;—because of the knowledge that the criminal is aware, if he takes life, that his own will be taken. Now to take away this penalty is in fact to take away from the community the means of self-defence. It is to make cowards of the innocent, but brave men of the guilty; for what man, for example, will dare defend his property, if a villain sets upon it, when the very defense may make the villain murder him, you having taken away from the villain himself all fear of death, no matter what crime he commits. If a man breaks into your house at midnight, with the knowledge that the punishment for murder is death, though that for house-breaking is not, you might be ready to confront him, and defend your property; but if you take away this penalty, you paralyse your own arm, and you nerve that

of the house-breaker with tenfold desperation, since he may finish his villainy with success if he murders you, and if he be caught the punishment for murder, at all events, is no greater than that for housebreaking, and if he does not murder you when you have confronted him, he is in danger of discovery at any rate. You are therefore rendered defenceless in an attack upon your property by the security of your adversary's life ; or if at all events you do attempt to defend your property, and discover or drive away the villain, you are almost sure to be murdered, if he can murder you, for his life is safe, while the taking of yours is perhaps necessary to his success. He bears a charmed life, the consciousness of which unnerves you, but nerves him. Just so, if your person be assaulted, and you resist, your very defense is likely to procure your murder, for you are the helpless one, your assailant has all the advantage ; the assassin cannot be killed, he is secure by law ; but if he kills you, he may escape completely. To abolish this penalty would therefore be gross injustice and inhumanity both to the innocent who are murdered, and to the innocent living. It is securing the murderer against death, but exposing the community to death by the hand of any villain, who, knowing that his own life is protected by statute, chooses to kill. It is, in fact a *premium on murder, as the safest of crimes*. If you commit any lower crime, you may be punished for it too much. If you commit this crime, you are sure of a punishment less than the evil you inflict upon others. The glaring injustice and inhumanity of such an arrangement is perfectly obvious.

Now to fasten this argument with incontrovertible power, I shall refer you to a case, which though it is on record, I have received from a near relative of the monster concerned. The creature in his passion held an axe over his wife's head, and told her that nothing but the law saved her life. "I would kill you in a moment," said he, "if I did not know that I would have to swing for it." I appeal to the good sense and humanity of our audience, is not that a benevolent statute, which extends over that lonely and wretched mother the only protection for herself and children? And is not that a most inhuman effort, which seeks to take away from before that brutal husband the fear of death, which, as he himself says, is all that now restrains him? Which is the spirit of Christ? the spirit that vindicates the law, and protects the community, or the spirit that takes away at once the dreaded penalty of the law, and the protection of the innocent? Which is the benevolent effort? that which throws its shield over the murderer's life, but gives up the unprotected victim to his malice, or that which binds and holds back the arm of the murderer, by making his own death the certain consequence of his intended crime?

THE STATISTICAL ARGUMENT—ITS WEAKNESS AND ITS  
SOPHISTRY.

We come next to the statistical argument of my opponent. And I have to say at the outset that it is of such a nature that you cannot trust it. The argument from statistics, so far as it is gathered from all offences

below the crime of murder, does not bear upon the question of capital punishment for murder at all ; but if it did, your induction is so narrow, so many causes are unnoticed, and the phases and influences of society are so changeable, that the results of your figures in a question of morals are likely to be utterly fallacious. It is often said that figures cannot lie, but you may marshal them in such a way, as to make them tell a falsehood in one direction, while they speak the truth in another.

Nor can there be anything more palpably false, and yet very plausible, than the mode sometimes adopted in arraying these statistics. Here is a country, for example, in which the penal code annexes death to several crimes, but in which, for a number of years, from various causes, crime has diminished ; of course capital punishments have diminished also. The murders have not diminished because capital punishments have diminished, but the capital punishments have diminished because the murders have diminished. Now your industrious statistic gatherers take these facts. They put the diminution of the capital punishments first, and the diminution of the murders as the consequence. In one column you see a decreasing ratio of capital punishments, in the opposite a decreasing ratio of murders. Ergo, the diminution of capital punishments has diminished the murders ! This is not exactly, according to the vulgar but pithy saying, the cart before the horse, but it is rather the horse behind the cart. And I think I need not labor to



expose either the absurdity of such statistics, or of the conclusions drawn from them.

When I hear men reason on the amelioration of a penal code, and then ascribe to this one cause the whole diminution of crime in society, it seems to me much as if Dr. Brandreth should state how many million boxes of his pills society have taken in the last half dozen years, and then having shown a diminution of diseases in that period, attribute the whole improvement in the health of mankind to his pills. The truth is, that this same diminution of crimes would have been produced by other existing causes, which undoubtedly are at the foundation of it. The decrease of intemperance, the influence of Sabbath schools, the prevalence of a better education, an increased attendance on the preaching of the gospel, are sufficient to account for improvements in society, which you trace directly to a change in the penal code; but if not, what a manifest absurdity it is to set up the experience of half a dozen years, in a State, which on the map of Europe you may cover with a sixpence, the experience for example of Belgium, only since 1830, and even that experience most doubtful in itself, and most imperfectly known, against the practice, reason, belief, and experience of all mankind, in all states of society, in all ages of the world. If I chose to reason in this way, I could show you statistics in the recent experience of England, to offset the experience of Belgium. For example, it is well known, from valuable tables constructed by Rev. Mr. Redgrave, of the Home Office, and annually presented to Parliament, that since the

removal of the penalty of death from two hundred offenses in 1837, there has been a very considerable increase of those offenses, an increase of no less than thirty-eight per cent. What shall we make of this? Shall we say that it proves that the penal code of England ought not to have been ameliorated? This would be the logic of my opponent, but I say no. The facts are not broad enough to justify the conclusion. There must be a much longer experiment, a much wider and more careful induction, and after all, even if those offenses should be found still to increase, that would not justify the applying to them again the penalty of death.

CAUSE OF THE PREJUDICE AGAINST THIS PENALTY.—REAL  
NATURE OF THE STATISTICAL ARGUMENT.

Now with regard to the crime of murder, the case is wholly different. It ought to stand apart in its penalty from all other crimes. And it is the annexing of the penalty of death to so many other crimes that has made the whole difficulty. Death has been taken from the hand of the Divine Legislator, from the place he assigned to it as a penalty, and most wantonly, most barbarously, most indiscriminately applied to minor offenses, in such wise, that the mind is filled with horror at the sanguinary and oppressive nature of such codes. Hence a prejudice against the infliction of this penalty in any case. Hence has it proceeded that it has become a mere threat, in many cases not executed. Hence the unwillingness of juries to convict. Hence

too the penalty of death has lost its preventive power against crime, even the crime of murder ; nay, being applied to minor offences, it follows naturally that murder itself would be committed to conceal them. Now here is the secret of the apparent weight of the statistical argument, which in reality bears not in the least degree against the punishment of death for murder, but only in favor of restricting that penalty to the crime of murder. Nothing can be more idle than to array before us statistics in regard to minor crimes, taken from countries where in the penal code there has been a great abuse of this penalty of death. It has nothing to do with our argument. The penalty of death, you say, being abolished, crime has decreased. What does this mean ? Is it a new principle in human nature developed, whereby men will sin the more, the more they have to suffer for it ? Not at all. The solution of the riddle is just this. When the penalty of death was common for minor offences, men committed murder in the hope to conceal their common crimes. Now the penalty of death being taken away from such minor offences, such murders for the concealment of those offences cease, unless you take away the penalty of death from murder also. This is the true account of the matter. Now if, falsely reasoning from this amelioration, you carry your repeal of the penalty of death even to the crime of murder, you destroy all the good you have effected, and bring back the whole evil where it was before, nay, much worse ; that is, inasmuch as you annex to murder no more dreadful consequences than to other crimes, a man will now commit murder

to conceal his other crimes, just as before he felt compelled to do it for such concealment, because those crimes themselves were punishable with death.

ABSURDITY DETECTED AND ILLUSTRATED.

The truth, then, is this ; the improper application of the penalty of death increases crime, but this forms no reason for its abrogation as the penalty for murder. I think I can illustrate the absurdity of the statistical argument by which you would force us to such abrogation, in a striking manner, from the science of medicine. Quinine, in medicine, is a grand remedy for fever ; it is a specific, but it needs to be judiciously and skilfully applied. Suppose, now, that a set of quacks should use it injudiciously in the case of fever, and indiscriminately for almost all other diseases, whether of the heart, liver, or lungs, and that in consequence diseases should be multiplied instead of diminished by this medicine. Now gather your statistics of disease in such circumstances, and a strong argument for the abolition of quinine from the medical practice might be made out based upon them. But suppose again that the indiscriminate use of quinine should begin to be diminished, and in consequence it should be shown that diseases had diminished also ; and the cause of such diminution being referred to the discontinuance of quinine, suppose you should be told that it is manifest that this remedy ought to be renounced not only in other diseases, but in fevers also. This would be an exact parallel to the statistical argument for the abolition of capital punishment. Would you accept such an argu-

ment ? No, you would retain your quinine, but regulate its application. And so, if you are humane and wise, you will retain your salutary ordinance of death as a penalty for murder, but regulate its application. You will not suffer the abuse of a good thing to destroy its use. In almost all reformatations this has been the error of mankind. They have not distinguished between uses and abuses. Attacking an evil which was mingled with good, they have swept away the evil indeed, but the good along with it.

## RUSSIA, TUSCANY, AND BELGIUM.

You bring forward the case of Russia ; but unfortunately for the argument, you bring forward no facts to sustain your statement. It is plainly denied, that for the time you assert there have been no capital punishments inflicted in Russia. It is perfectly well known, that under the reign of the Empress Elizabeth, so far from performing her pledge, many executions occurred ; and under her order the dreadful punishment of the knout was inflicted on one of the most accomplished ladies of her court. And as to Catherine, she commenced her own reign with the murder of her husband and nephew, and reserved to herself ever the privilege of putting to death whom she pleased on the accusation of state crimes, and as a matter of state policy. A singular sort of abolition of capital punishment, truly ! It is more than 80 years since, with this pretended clemency, Catherine began her reign. I find it distinctly denied that since that period there have been but few executions. Where are your statistical tables

of the sentences passed and executed throughout all the fifty provinces of the vast territory of this despotism ? It is said by travelers, that the code of Catherine has been long since disused. And who does not know the terrible punishment of the knout, accompanied sometimes with the cutting out of the tongue, a punishment, which is often death, and which, at a signal of command, can be carried into death at a blow, and is sometimes that administered, so that there is in it all the terror, with more than the cruelty of death, with the pretense and reputation of mildness. Humane constitution of things ! Have so many persons died under the infliction of the knout ? Oh, this was merely an unfortunate circumstance in administering the punishment ; but the code is a very mild one ; it abolishes punishment by death !

It does not abolish punishment by death. It simply takes that punishment away from the judges and the courts, through whom the law inflicts it in a free country, and puts it in the exclusive power and keeping of the monarch, to execute when and how he will. It simply makes a more perfect despotism. There is no trial by jury in Russia, and this taking away the power of death from the courts, to keep it solely at the discretion of the king, is only a mode of making him more awful to his subjects, while at the same time he gets the reputation of humanity. You might about as well say that in the despotism of Egypt, capital punishments are abolished, because nobody but Mohammed Ali has the liberty of cutting off men's heads. The argument from this case fails in every point.

Then as to Tuscany. The experiment, it is sufficient to say, proved so unsatisfactory, that the government restored the penalty of death for the restraint of crime, and capital punishment is not now abolished in that kingdom. This is a double proof against you. The government, after trying your experiment, find themselves compelled to return to this statute.

Then as to Belgium. *Capital punishment has not been abolished.* The Code Napoleon is in practice. Murderers are still sentenced to death, and it is only since 1831 that Leopold has commuted the sentence at his own discretion, an experiment so entirely his own temporary fancy, and so little to be relied upon, that at this very time he may be signing a death-warrant for the execution of a criminal. If, since 1831, there had been no executions in New-York, but simply the punishment commuted by the Governor, you might, with the same propriety, assert its abolition here, and institute your statistics accordingly.

Here I am forced by the lateness of the hour to omit some important points. One word seems necessary before closing. So far from deeming it—as some have intimated—an impropriety in a clergyman to appear on this occasion, to appear on any other occasion when the laws of God and the cause of righteousness and benevolence are to be supported, I deem it a part of his proper sphere. It is not his business always to be hedged round with the pulpit, where, as you sometimes say, he has all the argument to himself, and no man can answer him. I, for one, am glad of an opportunity like the present, even though it may possibly

expose us sometimes to taunt, sometimes to undignified invective. With all my heart do I respond to the sentiments of my opponent, as to the right of interpreting and commenting on the Scriptures, by laymen as well as the ministry. It is the very essence of Protestantism ; and we may courteously differ in the interpretation and the argument. The truths I have defended are those both of God and man, and they will inevitably prevail, whatever temporary influences there may be against them, for they are founded in God's great attribute of love. In this view, that celebrated stanza of one of our native poets, to which I am sure you will all respond, shall close my argument :

“ Truth, crushed to earth, shall rise again ;  
The eternal years of God are hers ;—  
While Error, wounded, writhes in pain,  
And dies amidst her worshippers.”



## ARGUMENT OF THE THIRD EVENING.

MR. CHEEVER remarked that the criticism of the statute in Genesis had already been firmly settled, and that he would spend no more time in bandying authorities about it. The arguments, which would take away the mandatory force of this statute, would also take away the mandatory force of every statute in the decalogue. My antagonist is greatly mistaken in supposing there is no imperative mood in the Hebrew language; there is an imperative mood, but no third person; and instead of its third person, the future is always used with an imperative sense.

Looking at the context, no other view can possibly be taken of this statute, than as an injunction, a command. The supposition of its being merely a prediction, carries with it another gross absurdity, in addition to those already demonstrated. On this supposition, what becomes of the reason for the statute? God says, "Whoso sheddeth man's blood, by man shall his blood be shed, for in the image of God made he man." Now if this be a prediction, it reads thus: Men will kill men for murder, because man was made in the image of God! Really this is giving men credit for a regard to the honor of God, which all that is known of our race denies. If this be a prediction, then it is absolutely false; for men do not punish murder for this

reason, but for other reasons. This is God's reason, but not man's. Besides, inasmuch as, according to your construction, to kill the murderer is to deface God's image in the murderer, if you take it as a prediction it reads thus: "Mankind will destroy God's image in the murderer, because in the image of God made he man." This is a perfect absurdity.

A similar absurd consequence follows your argument that this statute is simply and merely permissive, but not an injunction. It follows, according to your construction, that God gives to any and every man the permission to kill the murderer. But God declares that private revenge is sinful. Avenge not yourselves, but rather give place unto wrath; and yet your argument compels you to the assumption that God here authorizes any and every individual to take into his own hands the avenging the crime of murder in the death of the murderer. Nor is there any way of avoiding this inconsistency but by the interpretation of the statute as belonging not to private individuals, but to the magistracy. And if you say that it is permissive not to individuals, but to governments, then we have, at least, on your own concession, a complete divine sanction for this penalty, if any government deem it expedient. And since not only its expediency but its necessity can be triumphantly proved, we are in entire possession of the argument.

There is a remark of Schlegel in regard to the statutes in the Old Testament, which is of great weight in application to this. He observes that in the writings of Moses, whatever is meant to be a practical law, is

expressed with the greatest accuracy and precision. This is the case with this statute; it stands out from the context with the utmost clearness and precision, as a command. You have pressed the conclusion that if it is binding to put the murderer to death, it is also to put the beast to death who kills a man. I answer, this is no part of the command. But supposing it were. Very well;—take every beast who kills a man, and slay him;—it would do no harm; it would add, if done in the sacred spirit of this precept, incalculable power to the sentiment of the sacredness of human life. But this is not the command. But when God says, At the hand of every man's brother will I require the life of man; if you ask how he will require it, then instantly follows, the great, broad enactment, Whoso sheddeth man's blood, by man shall his blood be shed.

You have said that if this be an injunction, it applies inevitably not merely to what we call murder, but to every case of killing. I notice this evasion [besides the notice taken of it in the last argument] because it is a specimen of the miserable sophistry to which the advocates of the abolition of capital punishment are compelled to resort. It is manifest that God supposes his creatures in possession of common sense. He does not legislate for fools. Your mode of dealing with this passage is just like that monstrous use made of the sixth commandment to bolster up this insupportable argument. Thou shalt not kill; not in any case, you say, not even the murderer. Now just look at this as a specimen of logic. Was Moses utterly destitute of his senses? Could he have dared to give this law as

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God's law, meaning that no human life should be taken at any rate, not even that of a murderer, and then in the very same breath to utter also as God's law, the command to put every murderer to death without fail? To this most absurd, most mad conclusion, the argument with which our common sense is insulted forces us. Really, we do not know which to admire most, the ignorance, the hardihood, or the utter disregard of the common sense of mankind, displayed in such a treatment of the Scriptures.

IMPORTANCE OF ADHERING TO THE AUTHORITY OF SCRIPTURE ON THIS SUBJECT.

There is also a singular desire on this subject to get rid of the authority of the Scriptures entirely. We have been told that it ought not to be brought into this discussion; that it is too much our habit, as clergymen, to bring it forward on every occasion! Now it is not a good sign to be afraid of the Scriptures, nor is there anything likely to cast more prejudice over the sincerity of your argument against capital punishment, than the manner in which, according to your own acknowledgment, it shuns the light of the Bible. I am sure that the separation between the expediency and theology of this question is an unnatural one. What is true in theology is expedient in practice, and cannot possibly be otherwise. If God appointed this statute for human beings, it is because it is expedient for human beings, it is for the best interests of mankind. All the statistics on this subject, all the comparisons between different modes of punishment, are

before the Divine mind, and always have been, and all the reason that is in them the Supreme Legislator must have known, and acted accordingly. All things considered, it was best that this penalty should be appointed, death as the penalty for murder. For the prevention of crime it was necessary; and I hazard nothing in supposing that had it not been for this penalty among the nations, millions of human beings that have died quietly, would have been sacrificed by the passions of mankind. The expediency of this penalty is therefore in the highest sense an expediency of benevolence; nor could the Divine being have been just to his own attribute of love, had he not annexed this penalty to this crime.

It is great principles of rectitude and benevolence, which must be our guide on such questions as the one before us, and not mere statistics, or temporary experiments; and if those principles are put into laws for us by our Divine Legislator, so much the better. You may reason against appealing to them in this form, and you may sneer at them as fanaticism, as much as you please; but on all great occasions involving practical questions of right and wrong in the community, the general mind will revert to them, and rest upon them. We may bless God for it. If it were not so, if these principles were not elements of our intelligent being, and did not possess a power superior to every consideration, the world to the end of time would be one vast scene of selfishness and cruelty. The principles of mere expediency would always prevail over the principle of right, and men would prey upon each

other like lions and tigers. Let those who make the outcry of fanaticism when benevolent men in moral emergencies attempt to sway the common people by abstract or scriptural principles, remember that it is to the power of those principles, and not to mere considerations of utility or expediency, that they themselves owe their own condition of happiness in human society.

The truth is that the ocean of man's being is swayed to and fro beneath the influence of the sublime eternal verities of Scripture, as the sea is dependent on the influence of heavenly bodies in the majestic regularity of the movement of its tides. Blot out those shining truths, pluck these orbs from the firmament, and you would leave naught but a waste of waters infinite, rolling in endless agitation, without law or object, as in the night and death of chaos. It is impossible that any system of policy can stand, which is not founded in God's word ; and this is but saying likewise that no system can stand, which is not founded in the essential elements of man's being. The foundations of perpetuity in states and empires are only in the book of God, and when institutions are not supported there, they are not supported in the constituent elements of human nature. Time will prove their ruin ; for as fast as the principles of man's being come out into notice in the light of the word of God, such institutions will be seen not only not based upon them, but in opposition to them. And whether they come into notice or not, they are perpetually working. They heave the ocean, and nothing can abide the contest. It is the Bible, as formed for all time, and containing principles conso-

nant with man's nature as made in the image of his God, and destined to be redeemed into that image, that comprehends and affords the only lasting principles of state policy. That state policy, which is not consonant with the wisdom of the Bible, will be found opposed to the developed wisdom of human society, and to the necessary principles of the human mind. It contains within itself the elements of its own destruction, were it only in its opposition to the nature of the soul.

WISDOM AND GOODNESS OF THE PENALTY OF DEATH FOR  
MURDER AS THE FOUNDATION OF CRIMINAL JURISPRU-  
DENCE.

There is a concentration of wisdom and goodness in the statute given to Noah on murder, which we are but poorly able to appreciate. It was a legislation, which, taking the highest crime of which man is capable against his race, as the fit occasion for the concentration of its wisdom and benevolence, was to send its influence over the human character, and over all penal jurisprudence, down through the whole existence of mankind. It was to take the human conscience from its earliest development, and in answer to Cain's murderous question, "Am I my brother's keeper?" it was to answer, "Thou *art* thy brother's keeper; thou shalt love thy neighbor as thyself. Thou shalt no more dare to think of taking his life, than thou wouldst of taking thine own. To take his life is in truth to take thine own; for thine shall surely answer for his." It was in fact the very perfection of crimi-

nal jurisprudence, making murder a suicidal act. The man that seeks to loosen the certainty of this statute, loosens a fundamental pillar of society. The statute is fastened deep in the principles of the human mind, and every stroke you aim at it, cuts at the roots of those principles. As it was intended to go through all human existence, so has it gone, so deep, broad, universal, that to give color to your daring experiment, you can find in the history of the race for four thousand years, not one single state, in which, for the period of a single generation, this penalty has been dispensed with. You may be sure this could not have been the case, were not this legislation consonant with and demanded by the elements of the human mind. This statute is a well-spring of truth : it is a shaft sunk into the soul of mankind, that goes clear to the bottom of its sentiments, out of the reach of all mixture of sophistry, deeper than all cross views of a false and mawkish sentimentality, down into the living rock ; and thence the stream that gushes up is the pure benevolence of truth as clear as crystal.

TWO THINGS INCONTROVERTIBLE ; MEN'S LOVE OF LIFE,  
AND THEIR FEAR OF DEATH.

To have any ground of plausibility in your argument from expediency for abolishing the penalty of death for murder, you have to deny two things ; first, that life is the most sacred and desirable of all possessions ; and second, that death is the most terrible of all evils. Now on both these points the sense of mankind is unde-



niable. There may be deranged creatures, who deny both the desirableness of life, and the terribleness of death; just as there are hypochondriacs, who say that their heads are turned round upon their shoulders, so that they can only look behind them; and there may be inveterately hardened creatures, who have so drugged and stupified the moral sensibility with crime, that no consideration whatever will move them; but these exceptions no more weaken the power of the argument, than the fall of a solitary leaf in a great forest can prove the death of the whole foliage. You might as well bring forward one of your monsters of the menageries, your oxen with two heads, or your calves with five legs, to disprove by such a *lusus naturæ* the fact that oxen have but one head, and that calves are quadrupeds. You would be just as wise to take a petrified vegetable from the bottom of a swamp as an example of the qualities of the living vegetable world, as to take the heart of a Newgate criminal, to prove that death is not the greatest of evils.

Now, life being the most sacred of all possessions, it is the natural judgment of mankind that you must guard it by the most terrible of all penalties. But if life be the most precious of all possessions, the human mind again declares that death is the most dreadful of all evils, and therefore consequently the most powerful of all penalties to restrain men from taking life. Until you have disproved these two things, you cannot advance one step in your argument. There is no room for you. You have to root out and destroy these two arguments of the human mind, that life is the most desirable and sacred of all possessions, and that Death is

the King of Terrors. If you can do this, you can change the nature of mankind. But if not, then the conclusion is irresistible on the ground of expediency, that capital punishment is the most efficacious of all penalties to restrain men from the crime of murder, and consequently for the good of society ought to be practised.

It is useless for you to say that capital punishment does not restrain men from minor crimes. The judgment of the human mind is not the same as to the fitness and necessity of the penalty of death for such crimes. Take the case of stealing, for example. You have no prior declaration of the judgment of mankind that a man's property is the most sacred and desirable of all possessions, so that if a portion of it is taken, the greatest of all evils is inflicted; and consequently, the judgment of the mind is against the penalty of death in such a case. It does not assert the congruity of such a penalty with such a crime. But in regard to murder there is such a congruity; the voice of our common humanity asserts it. Taking life, you take all; and life being the most sacred and important of all possessions, the punishment by death, since it is feared more than all things, ought to be the penalty.

CONTRADICTIONS IN THE ARGUMENT AGAINST THE PENALTY  
OF DEATH.

Here it is singular to see the contradictory nature of the arguments of our opponents. They speak with two voices. With one voice they say death is too severe, too dreadful, too barbarous: "the gospel and the gallows, Christ and the hangman," it is too shock-

ing to humanity to think of. With the other voice they say it is not severe enough, not sufficiently dreadful ; you must have a punishment more to be feared than death, and therefore more barbarous, in order more effectually to restrain crime. If there ever was an argument that stultified itself, this does. If we say death must be the penalty, because men fear death more than all things else, and we wish to restrain the murderer from committing crime ; they say, Not at all ; - men do not fear death enough, this punishment has not enough of terror in it to restrain men. If we say, Death is the just penalty, and is demanded by benevolence, they say, Not at all : there is too much terror in it, it is too dreadful a punishment ; we must have a milder one !

There is the same contradictory spirit in the play of their pretended humanity. The advocates for the abolition of the penalty of death for murder are perpetually boasting of their benevolence, and with most profound argument as well as tasteful rhetoric, they ring the changes to the vulgar ears upon such elegant phrases as the "gospel and the gallows, Christ and the hangman." Now to some minds the juxtaposition of the words Heaven and Hell gives just as mortal offense, with the idea of the same Being dispensing the rewards of the one, and the punishments of the other ; and so does that of the phrases God and a consuming fire. This not being argument I know not very well how to dispose of it. But as to the humanity of this question, so far from the opposition to this statute being the humane side, it is inhuman to the last degree. It is an effort

not only devoid of benevolence, but characterized by great cruelty. It is cruelty to take away from the weak and defenseless that protection which is their only hope against the ferocity of the murderer. I have demonstrated this too clearly to need a word more on the subject.

INHUMANITY TO THE CRIMINAL AND TO SOCIETY OF STRIKING  
OUT THIS PENALTY.

To strike out this penalty against murder is as inhuman to the criminal as it is to society. This is easily demonstrated. Take the case of that drunkard, who would have murdered his wife, had it not been for this penalty ; now in this case, by taking away this penalty, you would at once have occasioned the most enormous of crimes in that wretched man, and the miserable death of that unprotected mother. These two immeasurable evils would have followed your humane legislation. The same thing must take place in multitudes of instances, so that you would at once be creating assassins, and causing the murder of their victims. Therefore humanity to murderers themselves calls on you to restrain them by this penalty in order to keep them from this crime, at the same time that humanity and justice to the innocent call on you to protect them from the passions of the murderer. The penalty is a warning ; men see it from afar ; it arrests their thoughts, their consciences, before they step within the circle of temptation ; or, if hurried unawares, by violent passions, toward this point of danger and of guilt, still does the warning of this tremendous penalty arrest the soul,

and bring the passions of the murderer to a stand even amid the wildest tempest. Now to strike out this penalty, is as inhuman as it would be, on a dangerous rock-bound coast, to destroy the light-house on the sharpest, roughest, most destructive reef across which the tide sweeps and beats its billows. Or I may say it is as if some enemy to mankind should confound the signals, by which the mariners of all countries have hitherto known their nearness to particular points of danger. Or it is as if, giving a chart to a ship bound on a long voyage, you should blot out the black warning scroll, that marks a sunken rock in the Atlantic right in that ship's course: We are all bound on the voyage of life, and the reefs of crime past which we sail are indeed many and terrible. But this is of such appalling magnitude, and the consequences of striking upon it are so dreadful, that there ought, if possible, to be a red light upon it, whose lurid blaze should glare at midnight over the whole ocean. In mercy to mankind God has himself erected such a signal, and you are struggling to tear it down. It is a most inhuman, cruel, anti-scriptural, and irreligious effort.

THIS PENALTY CONFIRMED BY THE LAW OF CHRIST, AND  
DEMONSTRABLE AS A DUTY SPRINGING FROM THE GREAT  
LAW OF LOVE.

This pretence of humanity becomes one of unparalleled hypocrisy when it daringly attempts to array the Spirit of Christ in the New Testament against the Spirit of God in the Old. There is not only no contradiction, but a perfect accordance between the New Tes-

tament and the Old on this point. The law of Christ confirms this statute, and I repeat my assertion that it is repromulgated under the form of Love in the gospel. It is demonstrably deducible from the rule "Thou shalt love thy neighbor as thyself." How much do you love yourself? So much, that if a murderer were to set upon you to kill you, you would kill him in self-defence. Then you are bound to do the same for your neighbor. If a murderer sets upon your neighbor to kill him, you are bound to defend your neighbor, by putting, if need be, the murderer to death. But the same law of love binds the government to do this, especially when the community have to so great a degree relinquished this business of self-defence, in order that the government may perform it more effectually. Now the same law of benevolence, which ought to make a murderer know that if, while you are standing by, he attacks your neighbor to kill him, you will defend your neighbor by killing, if need be, the murderer, ought to make him feel that the government is exerting the same watchful care, and that if, while the government is standing by, he attempts to kill, or does kill your neighbor, the government also will protect your neighbor as you would, at the expense of the murderer's life. But as the effort of the government is protection and prevention, and not revenge, there is no possibility of this but by making the murderer know before-hand that if he murders, he shall himself die. If in every case of *attempted* murder, the government could itself stand by, and at the moment of peril draw its sword, it would be bound to cut off the murderer

*before* he kills his victim; but as this is impossible, the next degree of protection must be resorted to, which is preventive, saying to the murderer, If you murder, you die yourself; the whole power of the government will be exerted to put you to death, if you kill another. But to say to the murderer, Thou shalt not surely die, is most inhumanly to give your neighbor up unprotected to the stab of the assassin. It is perfectly plain, therefore, that this statute is repromulgated in the great law of love, Thou shalt love thy neighbor as thyself. Away then with all this ignorant and mock humanity, that to accomplish its miserable purposes would even, if possible, array the Savior of the New Testament against the God of the Old.

PUBLIC JUSTICE AND PRIVATE REVENGE CONFOUNDED IN  
THE ARGUMENT AGAINST THE PENALTY.

I would there were time to dwell for a moment on the ignorant reproaches cast forth on the Jewish law of retaliation, so called, as if it were inhuman, barbarous, vindictive. So far from this being the case, you do yourselves, in fact, proceed on principles far more vindictive. You would not be content by any means to stop at this law of retaliation. For instance, if a man steals your coat, you do not content yourself with taking away a coat from him also, or with making him pay for the coat, but you even put him in the State's prison. And if a man forges a note against you of a hundred dollars, you do not stop at a retaliatory fine of a hundred from him also, but you incarcerate him. This is something more than retaliation. On your

principles, it is atrocious cruelty and barbarism. You confound the distinctions between public justice and private revenge. You make no distinction between the duties of the citizen and the government for the welfare of the community, and the duty of personal forgiveness.

THIS PENALTY NECESSARY TO PRESERVE SOCIETY FROM  
THE ANARCHY AND VIOLENCE OF PRIVATE REVENGE.

The truth is, there is no alternative between the benevolence of this statute of death to the murderer, and the violence of private revenge. One or the other, society will have, and if they throw off the protection of the one, they must endure the misery of the other. This protecting power must be lodged in the government, with a certainty of its execution, or men must go armed, and we must protect ourselves, and our neighbors too, against the murderer as we can. We may depend upon it that, as a general rule, these men who talk so loudly of the spirit of forgiveness, and quote scripture with so much volubility and delight, Resist not evil, Recompense to no man evil for evil, Vengeance is mine, I will repay, saith the Lord, will be the first to disallow and discredit their own doctrine, if you put them in personal danger; if you insult them when the laws of *dishonor* call for the duel; or if you take the life of a brother or a son. What then becomes of all their beautiful morality? They will avenge themselves, and if the government will not do it, it will be done at a cost of blood and violence



and moral outrage in the community, more dreadful than twenty solemn public executions of the guilty.

There is such a spirit of revenge in the human heart, that you must guard against it. You must take its indulgence from individuals, where it exists as revenge, and commit it to the government to vindicate the law, without malice, without vindictiveness, in the form of justice and protection. When you say to another, Avenge not yourself, you must be prepared to say, The law will do it for you. When you say to another, Protect not your own rights, you must be prepared to say, The government will protect them for you. If you do not, there ensues inevitably a shocking state of society. Let this statute be done away, and you will no more hear these persons who have attempted to set the gospel against it, preaching forgiveness. The maxims which our blessed Lord directs against private malice, they, with most intolerable sophistry, direct against that public, solemn justice of the government, which is God's own avenging interposition, as he has himself declared to us. Do that away, and then see if these men will give you any more of their homilies about not resisting evil, not avenging injuries.

THE EFFORT AGAINST THIS PENALTY A MOCK HUMANITY,  
BUT A REAL CRUELTY—THIS DEMONSTRATED BY INCON-  
TROVERTIBLE STATISTICS.

It is plain then that this effort is a *mock* humanity, but a *real* and wholesale cruelty. I will show you this by statistics. And to do this, I will enter my adversary's camp, and take his own spoils from him.

I find in the report of the Belgian Minister of Justice to the King, from which I shall presently draw some other statistics that will very much astonish you after the assertions you have heard, that the number of murders in Belgium attempted or consummated from 1831 to 1834, and of which the authors remain unknown, were as follows: 6 poisonings, 60 infanticides, 119 assassinations: making in all 185. Now here are 185 murders in four years, that is, 462 murders in ten years. Now take the ten years to come and look forward. The question is, what is to be done for the security of society? Here are the lives of 462 innocent persons in danger; for, the same causes existing, the same crimes will be enacted these ten years to come as the ten past. The assassins, you know, in some form or other, will attack these innocent persons. What are you bound to do? The least you can do is to threaten them with death, if they execute their purposes. You know that no other penalty, no lesser fear, has any effect upon them. To take away this penalty is in effect to say beforehand, We give up the 462 innocent persons unprotected, and without any effort to save them, to the stab of the assassin. We value the lives of the 462 assassins, more than the lives of their 462 intended victims. The assassins, although they destroy the lives of the 462 innocent persons, shall themselves be protected. I repeat it, this effort is a mock humanity, but a real and wholesale cruelty. This benevolence to murderers, but disregard of their victims, reminds me of the benevolence of that man alluded to with praise by my opponent,

who would go a mile out of the way to avoid treading on a worm, while he was at the very same time thinking of murdering one of his fellow-creatures!

WEAKNESS AND FALSEHOOD OF THE STATISTICAL ARGUMENT  
AGAINST THIS PENALTY.

I am now going to prove incontrovertibly the falsehood of the statistical argument of my opponent. You are well aware that it is the main foundation on which the advocates for abolishing capital punishment build, and that they have put it forth before us, as if it were impregnable. I shall show that it is not only unsafe, but in its most important particulars absolutely untrue. Statistics by figures in morals are plausible, but if they be not very accurate, they are sure to go against you. In the present case this sort of reasoning is a bridge thrown over a deep and rapid stream, where you are very likely to fall through. It reminds me of those bridges you may sometimes meet in the country, with a notice posted up at the entrance, "Five dollars fine for crossing this bridge faster than on a walk." Just so with this reasoning. If you will take passage in the carriage of the man that built the bridge, and go softly, you may perhaps go safely; but if you attempt to drive a great lumbering wagon of heavy argument across it, you shake it to pieces.

The first thing that strikes the mind in this statistical argument is the almost imperceptibly minute space of time that it covers. The only experiment which has been brought forward with reliable data of any kind, was one of five years! five years' commutation, not

abolition, of the penalty of death, in a European State not one twelfth part so large as the island kingdom of Great Britain! Now it is so ineffably absurd to pretend to draw conclusions for the legislation of the world from such an experiment, that the attempt becomes absolutely ludicrous. Even on the largest scale of territory, you cannot possibly rely on any experiments or statistics, which do not cover a space of time that goes through the whole education of the life of man. Any time less than a period sufficient for the whole formation and development of human character is utterly vain. The effect must be seen on a whole generation. The second thing that strikes the mind in this argument is the utter impossibility of separating and distinguishing between the influence of concurring causes. You can never know how much other changes, events, systems of policy, or ameliorating influences—Sabbath-schools, Bibles, good books, tracts, and the prevalence of temperance—have combined to produce the effect ascribed by you to a single cause.

There may have been twenty causes operating to produce a change in the statistics of crime during a particular period, when an amelioration or change of any kind in the penal code may have had nothing to do with it. To keep the eye in such a case fixed only on this one cause is indeed absurd. You are always in danger of the *post hoc, propter hoc*; just as if an ignorant boor who has all his life got out of his bed before the dawn, should believe and say that his early rising was the cause of the sun's rising!

It is the argument of that old man to Master Sir

Thomas More, of which Latimer gives us so amusing an account, that Tenterden steeple was the cause of Goodwin Sands; for he was a very old man, and he could remember the time when Tenterden steeple was built, but he could not remember to have heard anything said before that time, about the sands in Goodwin harbor; therefore he concluded that Tenterden steeple was the cause of Goodwin Sands. This is the logic of my opponent.

LENGTH OF TIME NECESSARY FOR A PROPER STATISTICAL EXPERIMENT.

I have said that the period of a generation is the least possible period for an experiment; you cannot in any less time, tell either what the human character and interests suffer, or what they gain by such a change. A system of law, you are to remember, is in a great degree the education of the community. Its influence is constant, silent, unnoticed, but mighty. It is a medicine of society, the operation of which, though not sudden, is lasting and powerful. The penalty of death for murder has been for thousands of years exerting a vast influence over the moral sense of mankind. It has acted on the conscience, it has helped the law of love, it has repressed crime, it has been an ingredient in our moral atmosphere, which at every inspiration of our moral being has gone into our circulation. If you take away its influence, you make a change that cannot at present be known fully in its disastrous effect. It is like a deleterious alteration in the combination of the gases that constitute our atmosphere. This penalty

is a tonic to our moral constitution ; the injurious effect of suspending it cannot possibly be seen in less than the growth of a complete generation. On the other hand, the principles on which this statute is founded are eternal and immutable ; and when you grapple with principles, you are strong and safe. They are as iron-bolts in the solid rock of the mind ; and unless you fasten your chains of argument to them, you have nothing to hold on by. Everything else is unstable and slippery, as shifting as the sand, and as dangerous to build upon.

STATE OF THE CASE IN RUSSIA—CAPITAL PUNISHMENT NOT ABOLISHED THERE, BUT HELD IN THE POWER OF THE EMPEROR.

One would really have thought from the language of my opponent that all Europe had abandoned the statute of Capital Punishment ; whereas, not one single State or nation can be found, where this is the case. We were pointed to Russia as an example of penal mildness and refinement, that ought to make us blush at our own barbarism. I have already stated some facts in regard to Russia, that totally change the aspect of the statistical argument here. I am informed in addition by a gentleman with whose high reputation we are all familiar, who has traveled extensively in Russia, and was well acquainted with the Emperor, (Rev. Dr. Baird), that murders are very frequent in that country. Of the 400 criminals whom he saw on one occasion about to depart into Siberia, he judges from statistical data, that one-tenth part were murder-

ers. Criminals are sent to Siberia, partly for the purpose of colonizing that portion of the Russian empire. The punishment of the knout is first administered on murderers, sometimes the tongue has been cut off in addition, and if the criminal do not die in consequence of this barbarity, he goes into exile. On every individual who escapes from exile and returns, capital punishment is inflicted. The infliction of death as a legal penalty was taken away, Dr. Baird believes, not from the opinion that it did not prevent crime, or was not the most effectual penalty, but because by irresponsible noblemen and corrupt courts, there being no trial by jury, the power was so shockingly abused, it was taken away from among the legal penalties, and reserved as a power of the throne only. This change it is believed was made because it would not do for the nobles to have the power of life and death over their serfs, with the power of swaying the judges at their pleasure, where there is no trial by jury, and the administration of justice in consequence fearfully corrupt.

Now you can no more reason from such a state of things to our country, than you could reason from Botany Bay to England. And yet this is the country to which we are pointed, forsooth, for an example of mildness and wisdom! A country without the privilege of trial by jury, a country where punishments of the most barbarous description are inflicted, a country which is an absolute despotism, increased in its unlimited power, by the very fact that capital punishment is taken from the legal penalties, and administered by the will of the Emperor! I say it is a slander on our

admirable institutions, and a contempt of our common sense, to point an American to such an example.

#### BELGIAN STATISTICS IN FAVOR OF CAPITAL PUNISHMENT.

We come now to Belgium. I really know not how to account for the hardihood of our opponents in referring to this case. I hold in my hand a report on the administration of criminal justice in Belgium, during the years 1831, 32, 33, and 34, presented by the Minister of Justice to the King. This is the period referred to by the other side with such daring confidence. If my opponents have not seen this work, I pity them for unconsciously bringing forward statistics in the teeth and eyes of truth; if they have seen it, I shall show the most outrageous misrepresentation. The whole of these statistics bear in favor of capital punishment, and decide with great strength, so far as such a little modicum of evidence can decide anything, against the abrogation or commutation of the penalty of death for murder.

The first classification among these statistics, which bears directly on our argument, distinguishes the crimes against persons, and against property. Under the head of crimes against persons are included, of course, the murders. Now from 1831, the time when the experiment of Leopold's lenity commenced, to 1835, the accusations for crimes against persons were increasing.

In 1831,	they were	123
" 1832,	" "	130
" 1833,	" "	122
" 1834,	" "	139



The last year of this experiment proved to be the most fruitful in crime. Among the crimes attempted or consummated, of which the authors were not discovered, there were from 1831 to 1834, six poisonings, sixty infanticides, 119 assassinations; in all, 185 murders in four years. "In view of such grave statistics as these," the Minister of Justice remarks, that "it is manifest that the administration of criminal justice does not possess the efficiency necessary for the restraint of crime."

It is important distinctly to remember that the period here spoken of is the very period, in regard to which it has been asserted by our opponents that the statistical results proved a diminution of crime under the abolition of capital punishment. In the first place, there was no such abolition, but only a temporary suspension of the penalty by Leopold. In the next place, under the experiment of this suspension, crimes increased, especially murders. In the third place, the authority of the Belgian Minister of Justice is beyond dispute on this point, and his statistics, and the conclusions by him drawn from them, are perfectly to be relied upon.

Proceeding a little farther in our examination and analysis of these statistics, and comparing the number of crimes of every kind unpunished, there were in 1831, 774; in 1834, 829; showing an increase in these four years. In 1831, the number of crimes in comparison with the population, was one to 6560 inhabitants; in 1834, one to 6476, showing in this way also an increase. The number of murders

in the period from 1826 to 1830, when capital punishment was executed, being compared with that in the period from 1831 to 1834, when it was commuted, gives an increase in the last period in proportion to the number of crimes, 36 being the annual average of murders, in that proportion, from 1826 to 1830, and 42 from 1831 to 1834. The Minister of Justice remarks, that from this table it is manifest that from 1831 to 1834, the number of assassinations and murders has increased compared with the five preceding years. Again, in the year 1829, when capital punishment was executed, only 11 persons were condemned to death; in 1830, only four; in 1831, when capital punishment began to be transmuted, it rose to nine, but in 1834, to 28;—here again an increase under the experiment of lenity. Once more, in 1831 the number of assaults and batteries was 4444; in 1834 it was 6051, showing an increase of 1600 under the experiment of lenity. In 1831 there were before the tribunal of police 21,711 criminals; in 1834, 24,756, showing an increase of more than 3000. During these four years there was a constant increase of crime. In 1831, the tribunal of simple police rendered 7897 judgments; in 1834, 11,762, an increase of 3865.

These Belgian statistics are thus proved to be triumphantly in favor of capital punishment. In view of these statistics, every person must be ready to say with the Minister of Justice, that the administration of criminal jurisprudence in Belgium, manifestly does not possess sufficient energy to restrain from crime. And

what lesson do these statistics teach, as to the consequences of Leopold's experiment of not executing the penalty of death for murder? Surely, so far as any conclusion can be drawn from so limited a period, it must be this, that Leopold's intention, being promulgated, occasioned from the first a relaxation of moral and penal restraint in the vicious community, the consequence of which was a marked increase of crime, especially of murders. In view of these statistics, given under the hand of the Minister of Justice, and certainly to be relied upon, I know not how to denominate the statistics to which we have been treated in the columns of some of the newspapers, and on which our opponents seem unfortunately to have rested, as anything else than a bare falsehood. It is highly probable that the statistics of Belgium for the last five years, exhibit proofs as strongly in favor of capital punishment, as for the four years whose record is before us; that is, if Leopold's lenity has been continued; for the consequence of an assurance that the law, though remaining, will not be executed against murderers, must be a lowering of the moral sense, and an increase of crime. The opinion of the Minister of Justice is strongly marked; had he been going to remonstrate against the king's experiment, he could hardly have said more; he has told king Leopold plainly that thus far during this experiment, crime of the worst kind is on the increase, that it has increased above and compared with the period preceding this experiment, and that His Majesty's criminal records prove that his criminal jurisprudence needs more ener-

gy. Thus the statistical argument from Belgium turns powerfully in favor of capital punishment; and both the statistical and historical argument of my opponent, whether you take the case of Russia, Tuscany, or Belgium, breaks down at every step.

The case of Tuscany has been satisfactorily disposed of, the argument from the experiment there being turned directly against the abolition of capital punishment, since it has been found necessary by experience, probably from the increase of crime, as in Belgium, to return to that punishment. A resident on the spot, in Florence, near the time when the statute establishing capital punishment was repromulgated, gives the following account of the matter:

“The law abolishing capital punishment was promulgated under Peter Leopold, grandfather of the reigning Duke. A new code has recently been published, in which capital punishment is threatened in certain cases. Thus Tuscany, whose example has often been quoted by those who would not leave the power of taking life to any tribunal, has gone back to her old position, and taken in her hand again the *sword* of justice, which many years ago she had laid down. The results of her experiment, of course, have not been satisfactory. An American resident of Florence observed that the number of murders in Tuscany in a single year, exceeded that of the murders committed in all the United States in the same period. However that may be, it is a clear case, that this humane government has felt the necessity of giving to the law which

guards the life of the citizen, a more fearful penalty than that which it has possessed for a long time past.\*

Thus the attempts to build an historical argument against the penalty of death for murder have all signally failed, as well as the pretences of a statistical argument. They cannot stand the test of truth. Time destroys the historical argument, even the semblance of it; it crumbles before the passing of a single generation; and a correct arithmetic turns the statistical argument on the other side.

POWERFUL HISTORICAL ARGUMENT IN FAVOR OF CAPITAL PUNISHMENT.

I shall now adduce to you on my side an historical argument of a very different nature. I shall refer you to the time in which the effects of the penalty of death for murder were tried in the most enlightened and civilized nation in the world for one thousand five hundred years. For more than one thousand five hundred years in the kingdom of Judea the experiment was tried, and the result was, that when the penalty of death for murder was most faithfully executed, the crime of murder was less common; but that in times when that penalty was not executed, or, against the requisitions of the Divine law, was evaded, murders and all other crimes became common; the land was full of blood; and the accusation of cruelty and oppression is brought against the nation, because its princes not only did not execute the law, but even themselves murdered with impunity. Now this is a grand experiment; there is no being de-

ceived in it; it is not a limited induction, but extends over one thousand five hundred years. And here let me remark that the Divine Legislator, under whose administration this experiment was tried, had a perfect knowledge of all objections that could be brought against it; there was the same uncertainty even in the best conducted legal investigations; the same difficulty of bringing the warped consciences of men up to the standard of the law; the same false philanthropy for the murderer, and unwillingness of jurors to convict; the same danger lest the innocent should be punished instead of the guilty; the same objection of dismissing a man into eternity unprepared for death; but in view of all these things the penalty of death for murder was affixed to the law, and the experiment was continued for more than one thousand five hundred years in the nation under God's particular care, while in regard to all other nations there stood unrepealed, the old Noachic ordinance, Whoso sheddeth man's blood, by man shall his blood be shed. Now I think this experiment may safely be put against any ten years in Belgium, or twenty in Tuscany, or eighty or one hundred under the wisdom of a murderer and adulteress, in the despotism of Russia.

#### A FINAL OBJECTION ANSWERED.

There remains to be answered one objection. It is that of the danger of dismissing a man from probation in his sins. "By what authority," it is asked, "do we limit the space of a man for repentance?" The ob-

jection has, of course, no weight with those who found the duty to take the life of the criminal on the Divine injunction, because, it is the Divine Being, who, in the penalty itself, limits his space for repentance, just as he does that of every man, in his providence, by death. But I answer, first, my opponent has conceded the right of society, in certain cases, to take life, the right of a man in self-defence, and of society also. But is not this the limiting a man's space for repentance? Is not this to run the hazard of cutting a man off in his sins? Now if a man may do this suddenly in self-defence, much more may society do it deliberately, for the defence of society, allowing even the criminal abundant time for repentance. But we contend that a murderer, condemned to death, with several weeks intervening between the sentence and the execution, is incomparably more likely to repent than if you imprisoned him for life. Indeed, it is the declaration of God himself, that because sentence against an evil work is not executed speedily, therefore the heart of the sons of men is fully set in them to do evil. I suppose that we all, if we knew that sentence of death was issued against us, and would infallibly be executed within a few weeks, the time being fixed, should address ourselves much more diligently and effectually to the work of repentance, than if we had an indefinite respite. And the sentence might be the very means of our repentance, while the respite might be the very means of our never repenting. Why then should it not be so with the criminal? In this view, punishment by death is infinitely more humane to the spiritual interests of the

murderer, than imprisonment for life. By imprisoning him for life, you may cause his eternal death ; by sentencing him to death, you may cause his eternal salvation.

But this objection, to many minds, is met more powerfully by throwing it back upon the abolition of this penalty. It is those, who aim at abolishing this penalty, who would cause men to be sent into eternity unprepared. In the abolition of this penalty, the number of murders would inevitably be increased, and every individual so murdered is sent into eternity, not with the weeks of preparation, and all the solemn holy inducements and appliances allotted to the murderer, but in a moment, without a breath for prayer, without time so much as to say, God be merciful to me a sinner. Now I say, without hesitation, it is worse to send one person into eternity in this manner, than it would be to send ten murderers with six weeks' warning. But if you were to repeal this penalty of death for murder, then by the increase of this crime, for every murderer now with solemn warning executed, you would probably be the occasion of sending two or three innocent persons unwarned and unprepared into eternity. This is an inevitable result on the repeal of this penalty. I say, therefore, that its abolition would be an act of impiety ; for the substitution of imprisonment for life would probably make most murderers die in their sins, while it would send many innocent persons unprepared into eternity. I turn this objection, therefore, back with tenfold power upon your own proposed repeal of the penalty of death for murder. It constitutes in the mind



of every benevolent person one of the very strongest arguments against such a repeal.

FINAL ATTEMPT TO EVADE THE STATUTE.—ABSURDITY OF  
THE EVASION DEMONSTRATED.

Before concluding my argument I must return for one moment to the great statute of Jehovah with which we set out, in order to expose the fallacy of the latest mode adopted by my opponent for evading the binding force of this statute. He proposes to render the ordinance, *among men*, instead of *by man* shall his blood be shed. Now, in the first place, this would not help the matter at all, since it may be powerfully argued, if you take this as the translation, that it manifestly refers to the solemn process, by which this statute shall be executed, not carelessly, or by single avengers, or without the consent of mankind, but by the judgment of men, by witnesses and judges, as afterwards more definitely these specifications were in fact added, serving as a signal commentary on the statute itself. So that, even if you render it *among men*, you gain nothing but this, that in all probability the magistracy itself is referred to, and the court of justice signified, as the way in which the penalty shall be affirmed, the sentence of the murderer issued. This would be the meaning if you render it *among men*, or else it must mean simply *in the presence of men*, which is the sense Vatablus says those persons wish, who interpret it *among men*; "*Inter homines*, that is, *publice*, *et in conspectu omnium, cunctisque viventibus*," among men, that is, *publicly*, and in the sight of all persons

*looking on.* This would not in the least degree diminish the force of this statute as an injunction. It is impossible that by this rendering you can convert the death of the murderer into an accident, that may or may not take place among men, for the *reason* why it shall always take place *is given*. And besides, if the murderer is put to death *among* men, it must still be *by* men that his execution is accomplished. It is not a flash of lightning that is to fall upon him, nor a death by drowning, nor any sudden and fatal pestilence provided for the murderer, but a death among men *by men*, by witnesses and judges. Every attempt to break violently through the hedge of this statute, only entangles the opponents of it more helplessly among its thorns.

My opponent has asserted, with astonishing hardihood, that the Septuagint translation is in favor of this rendering. So far is this from being true, that this rendering cannot be found in the Septuagint translation at all, which omits the phrase *by man* altogether, and simply says, "The person shedding the blood of man, for the blood of that man his blood shall be shed;" giving the statute the same universal form of injunction, which it has in the Hebrew. The Septuagint translation is as follows: 'Ο ἐκχέων αἷμα ἀνθρώπου, ἀντὶ τοῦ αἵματος αὐτοῦ ἐκχυθήσεται. The phrase *by man* is omitted, and it is simply ἀντὶ τοῦ, &c., which cannot possibly be rendered except by the phrase *for, instead of*; and if the words το αὐτοῦ are added, as Le Clerc has suggested from the Complutensian manuscript, the sentence must be rendered thus: *the person shedding man's blood, instead of his blood that was shed, that of*

*the murderer shall be shed.* This Septuagint translation therefore powerfully supports the interpretation of the ordinance as an injunction. It is not a prediction that in the course of Divine Providence, the murderer will die, but it is a statute, that *instead of* the person murdered, the murderer's blood shall be shed, that is, deliberately, designedly and speedily. Le Clerc himself interprets it, *pro sanguine hominis, ejus sanguis effundetur ; for the blood of man, his blood shall be shed.*

My opponent has also gone so far as to assert, that Calvin's opinion was against the common interpretation of this passage. Now, so far is this from being the case, that Calvin distinctly says that in this statute *God arms the magistracy with the sword for the punishment of murderers.* Calvin renders the phrase which in our common translation is rendered *by man, in homine, in man*, and he does this simply because he thinks this phrase was used to *mark more expressly the atrocity of the guilt of murder.* He says that he does not deny that the punishment of murder with death, by the judges, is here meant, but that *more* is meant. God prepares other providential executioners of his law, at the same time that he arms the magistracy with the sword, in order that the blood of man may not be shed with impunity. The opinion of Calvin, in his commentary, is so clearly and so strongly in favor of this statute as an injunction, that I cannot account for the manner in which my opponent has hazarded his credit, in appealing to this distinguished writer.

The direct and natural translation of the passage is *by man*, and not *among men* ; so did the Jewish Tar-

gum of Onkelos render it ; so did the Rabbins ; so, before all, did Josephus ; and they applied it to the magistracy ; and Le Clerc, to whom my opponent refers, observes that the Hebrew preposition here used may everywhere (*passim*) signify *per*, *by*, or *through* ; though, as in some peculiarities of Hebrew construction the sense of *inter*, or *among*, may be admitted, he prefers that sense in this place. But according to Le Clerc's own remark on the preposition, the most natural translation is *by man* and not *among men* ; as it is also, *whosoever* and not *whatsoever* ; and with these two poor attempts at critical ingenuity, the power of torturing upon this passage is exhausted. After you have stretched it on the rack, its meaning is still the same, and you cannot succeed in altering it.

The climax of absurdity to which the proposed rendering would reduce the whole statute, as a mere prediction, is so great that it is surprising it should find a single advocate. The Divine Being has just been uttering the solemn declaration that at the *hands of men* he would require the blood of man. Now if the question be asked, *How* will he require it ? *how* will this threat be fulfilled ? this proposed interpretation gravely replies, Whoso sheddeth man's blood, that man—WILL DIE AMONG MEN ! Wonderful conclusion, most wonderful ! The murderer will, in God's providence, die ; and not only so, but *among men* he will die ! And this is the way in which God will require the blood of the murderer *at the hands of men* ! And not only so, but the murderer will thus die *among men*, because *in the image of God made he man* !

In fact, neglecting the context, and attempting to change the common and natural translation of this statute, so as to make it other than a command, you fall into such absurdities, that it is only necessary to state them, in order to strengthen tenfold the assurance of every reader of the Bible in the faithfulness and accuracy of the translation as it stands.

THE REASON GIVEN FOR THE PENALTY MAKES IT ABSOLUTELY CERTAIN THAT THIS ORDINANCE IS AN INJUNCTION.

In fact, the reason given for the penalty, stands directly in the way of every possible interpretation of this ordinance, save only that which is on the face of it, as a command. It is not an accident, nor an ordinary occurrence in the Divine Providence, whereby the blood of the murderer shall be shed, but a particular and perpetual determination of Jehovah, *for this reason*, that IN THE IMAGE OF GOD MADE HE MAN ; and *therefore*, he that defaces and destroys that image by murder, shall solemnly be put to death. This putting to death must be among men, or not at all ; it is not among beasts, nor among angels ; and this ordinance is itself the grand means of accomplishing this result ; for without this ordinance murderers would no more be put to death than other criminals. Put, if you please, in any community, in the place of this ordinance, the mere prediction you contend for, and post at the head of your criminal jurisprudence just this ; MEN THAT MURDER WILL CERTAINLY DIE ; and then see

if on this account murderers die any more frequently or violently than other men. Indeed, your mode of expounding this passage reduces it almost to a laughable absurdity. The wonder is that you have not gone one step farther in your critical sagacity, so as to interpret the declaration by man *shall his blood be shed*, as signifying simply that a vein shall be carefully punctured in the arm of the murderer, and a number of ounces of blood taken, and then imprisonment for life administered as the sentence. This amendment would be no more ridiculous than the other expedients, by which you seek to rid yourselves of what you candidly acknowledge to be a terrible *incubus* on your argument.

#### CONCLUSION.

##### THE RIGHT MODE OF DIRECTING PUBLIC OPINION.

The statistical argument is what my opponent has mainly relied upon, but it has proved to him unfaithful. On the great moral and scriptural principles connected with this subject, the adversaries of the punishment of death for murder are unwilling to dwell. And this, most certainly, is a mark against their cause. But if they, or any community, are averse from the discussion of such a question upon such principles, so much the greater necessity of explaining and defending those principles. If public opinion is wrong, it is only thus that you can set it right. And if the public mind be greatly excited, you can gain nothing in any time of commotion on a great question, by withdrawing, or at-

tempting to withdraw out of view the great principles around which all the agitation gathers. That agitation will continue, the elements will forever be disturbed, till those great principles find their proper place, and rule in all minds. Push them forth then into notice; make them more and more prominent; and then when once rooted and grounded, you will have a stable foundation for good order to rest upon. Till then you will have uncertainty, revolution, private revenge, and the horrible despotism of the passions of the multitude. It is a great mistake when you shun the encounter of a prejudice, or seek to allay a commotion, by shutting up a truth. There may be ignorance and prejudice in juries, there may be a mistaken or a depraved public opinion in communities. But to give up great principles on such occasions, or for such reasons, is just taking away the foundations that you may save the superstructure. It is nothing but the establishment and reverence of such principles that can preserve aught that is blessed in Church or State. And it is the very madness of mock-prudence, through fear of the prejudices or passions of the multitude to shuffle out of view those sublime and awful truths, beneath whose powerful sway only it is that righteous law can be supported, and the passions of the multitude hushed to repose.

The protrusion of a great principle may arrest and excite all minds, and set the world in an uproar, but it will prevail for good. It is like throwing a vast mountain of granite into the sea. For a time you raise the whole ocean in fury; but wait awhile, and

you see the waves that rolled in rival mountains, retreating from its rugged sides, and worshipping around it; and on its lofty summit you may fix a light-house for the world. The great principle given by Jehovah to Noah in this statute, and to the world through him, is such a lofty mountain, sustaining on its summit a light of life and legislation for all succeeding generations; and sure we are that the puny efforts directed from time to time against it will prove but as the foam and agitation of the idly raving billows in the ocean.

2







1. The first part of the document is a list of names and addresses of the members of the committee.

2. The second part of the document is a list of names and addresses of the members of the committee.

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